THE HOUSE OF LORDS AND THE UNJUST VETO

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SECOND EDITION

NATIONAL LEAGUE OF YOUNG LIBERALS
447, STRAND, LONDON, W.C.

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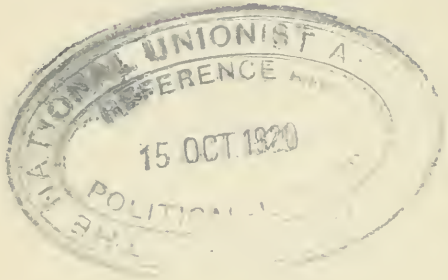
"The House of Lords represents nobody but themselves, and they enjoy to the full the confidence of their Constituents."—Mr. Birrell.

CASSELL AND COMPANY, LIMITED

LONDON, PARIS, NEW-YORK & MELBOURNE

1907


UNIONIST A
15 OCT 1920

PREFACE.

A Conservative friend of mine, who takes a fairly active part in political life, once told me that he found the most difficult thing, for purposes of platform speaking, was to discover any satisfactory justification for the actions and the existing powers of the House of Lords. How difficult a matter this question is for the Conservative Party, is perceptible from the quaint arithmetic of Lord Avebury, who recently propounded the theory that the Education Bill which the Lords rejected in December, 1906, was passed in the House of Commons by Members who represented not the Majority, but the Minority, of the Voters of the United Kingdom (see par. 76).

Although the defence of the House of Lords may present considerable difficulties to those who speak on Conservative platforms, this does not lessen the importance, to Liberals, of being armed with arguments and facts for use amongst the many who have not the books at hand, nor the time to spare, nor, possibly, the inclination to study, the subject thoroughly for themselves. It is with a view to presenting in a connected whole the more salient points in this controversy, as they present themselves to a Liberal, that the following pages, containing numbers of carefully verified facts and ex-

pressions of opinion from representatives of all shades of political thought, have been gathered together, sifted, and arranged.

This little book was first published in the form of two lectures in 1884, and then met with a very kind reception. It rapidly ran through two editions, and has long been out of print. The rejection of the County Franchise Bill by the House of Lords in that year caused widespread indignation, and led to its publication. Now that the gradual spread of Education, coupled with a re-awakened desire for Legislative Reform, has brought the House of Lords once again into sharp conflict with a democratic House of Commons, this little work has been carefully revised, largely re-written, and brought abreast of the present time.

The individual Peer may be one of the very best fellows in the world, or he may be one of the most detestable. He may have a very real sense of his duty towards his neighbour, or his guiding principle in life may be merely to satisfy his own desires. Whatever the individual Peer may be in private life does not fall within the scope of this little book to consider. Here we discuss the Peers, whether individually or collectively, from one point of view only—namely, in regard to the political power they wield, or lay claim to, as members of the House of Lords.

When a Liberal Administration comes into office, the Lords, like a slumbering volcano, are aroused to activity, and they destroy a large portion, and mutilate another large portion, of any Legisla-

tion submitted to their consideration. While a Conservative Administration is in office, the volcano is absolutely quiescent. The injustice of it all has dawned upon the public mind, and the political attitude of the Lords towards Liberal Legislation and their political presumptions in over-riding the representatives of the electors, is bringing the question of the Lords' Veto on Liberal Legislation rapidly near to its final solution.

ROBERT EDGCUMBE.

1 *February*, 1907.

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CHAPTER I.

THE THREE FUNCTIONS OF THE HOUSE OF LORDS.

1. A Council of Advice to the Sovereign.

WHAT are the functions of the House of Lords? The authorities—historical, constitutional, and legal—tell us that the functions of the House of Lords are *threefold*. The Peers are, *first*, a Council of Advice to the Sovereign; *second*, they are the Supreme Court of Appeal in legal matters in the United Kingdom; and, *third*, they are a branch of the Legislature. Is it true that the Peers are still the Advisers of the Sovereign? No, for their functions as a Council of Advice to the Sovereign were long ago usurped by another body, which we know by the name of the Privy Council, and the counselling functions of the Privy Council have, in the seventeenth and eighteenth centuries, been usurped in turn by yet another body—namely, the Cabinet or Ministry—which still retains these functions unimpaired. Clearly the House of Lords can no longer be regarded as a Council of Advice to the Sovereign.

2. The Supreme Court of Appeal.

The House of Lords is said to be the Supreme Court of Appeal in this country; but is this really the case? No. The House of Lords is still *in name* the highest Court of Appeal, but in reality it has long since ceased to be so, for here again the functions of the House of Lords have withered by disuse. For a long time past it has been the custom for *law* lords only to sit and hear Appeals to the House of Lords. In order to provide sufficient law lords for hearing appeals, the Judicature Acts authorise the granting of patents of nobility for life to a limited number of lawyers. The only instance in recent years of a lay lord taking part in the hearing of a suit was when Lord Denman sat and voted with the minority in the case of Bradlaugh *v.* Clarke (1882). A few years before this, when the Mordaunt divorce case was before the House of Lords, some of the lay lords expressed a wish to sit and take part in the hearing, but both Lord Cairns and Lord Redesdale advised them not to press their rights, and they refrained from doing so. We shall therefore not be far wrong in coming to the conclusion that two at least of the three prime functions of the House of Lords—namely, their Counselling and Appellate Jurisdiction—are dead and gone.

3. A Branch of the Legislature

The third function of the House of Lords, namely that of being a Branch of the Legislature, remains intact, save in so far as regards "Money Bills," which the House of Commons has long kept

under its own exclusive control (par. 88). In the following pages it is our purpose to examine what use the House of Lords has made of this their last remaining function in recent years, and to make some comments upon their action.

4. The Year 1832 as a "Milestone."

It is only since the year 1832 that the hostility of the House of Lords to numerous Bills passed by the House of Commons has come into prominence; and as, with successive extensions of the Franchise, and the gradual spread of education, the House of Commons has become more and more democratic, so the differences of thought and opinion between the House of Lords and the House of Commons have become accentuated. Why, it may be asked, were there none of these differences before the year 1832? The shortest answer to this question is contained in a Petition presented to the House of Commons in 1793, which stated that the Petitioners were ready to prove that of the members of the House of Commons, 97 were directly, and 209 were indirectly, returned by the influence of Borough-Mongers and Territorial Magnates. That is to say, 306 members (a large majority of the House of Commons, before the union with Ireland) of the House of Commons were returned by undue influence. At the time of the Reform Bill it was conclusively proved that in England 218 members of the House of Commons were returned by 87 Peers, in Scotland 45 by 21 Peers, and in Ireland 51 by 36 Peers. But in 1832 the Reform Bill passed, and the influence of the House of Lords was no longer paramount.

Mr. Walter Bagehot has summed up the effect of the Reform Bill in the following words :—"From the Reform Act the function of the House of Lords has been altered in English history. Before that Act it was, if not a directing Chamber, at least a Chamber of Directors. The leading nobles who had most influence in the Commons, and swayed the Commons, sat there. Aristocratic influence was so powerful in the House of Commons that there never was any serious breach of unity. When the Houses quarrelled, it was, as in the great Aylesbury case, about their respective privileges, and not about national policy. The influence of the nobility was then so potent that it was not necessary to exert it. Since the Reform Act the House of Lords has become a revising and suspending House. The House has ceased to be one of latent directors, and has become one of temporary rejectors and palpable alterers."

The passing of the Reform Bill in 1832 is the "Milestone" which marks the emancipation of the House of Commons from the direct control of the Peers, and the commencement of the now prolonged struggle between Peers and People for control over Legislation. From 1832, accordingly, dates the final stage in the history of the House of Lords so far as regards legislative control. Before commenting upon the claim of the House of Lords to emasculate and to destroy Bills passed by the House of Commons, let us briefly pass in review some of the measures they have marred, obstructed, or rejected since the great Reform Bill was passed in 1832.

CHAPTER II.

BILLS MUTILATED AND REJECTED BY THE HOUSE OF LORDS SINCE 1832.

5. The Civil Disabilities of the Jews (1833).

In the first Reformed Parliament (1833) a Bill was passed by the House of Commons, and sent up to the House of Lords, to remove the Civil Disabilities of the Jews. The form of oath for all municipal offices then contained the words "on the true faith of a Christian," and it was proposed so to alter it as to render the Jews eligible for these offices. The House of Lords rejected the Bill. "We hear of essentially Protestant Governments, and essentially Christian Governments," wrote Macaulay; "words which mean just as much as essentially Protestant cookery and essentially Christian horsemanship. Government exists for the purpose of keeping the peace, and for the purpose of compelling us to supply our wants by industry, instead of supplying them by rapine. If there is any class of people who are not interested, or who do not think themselves interested, in the security of property and the maintenance of order, that is the class to be excluded from a share in their own government" ("Essay on the Civil Disabilities of the Jews"). The Bill was rejected. In 1834

and in 1841 it was again and again rejected. In 1845 the House of Lords permitted it to become law.

6. Bribery and Corruption (1833).

During the election of 1832 much bribery and corruption was carried on. Subsequent inquiries showed that unblushing corruption had prevailed amongst the "freemen" voters of Warwick, Hertford, Stafford, Liverpool, and Carrickfergus. To purify these constituencies of their corrupt element, Bills disfranchising their freemen voters were sent up to the House of Lords and were there rejected. During the same session a strong Bribery Bill was passed by the House of Commons, but the House of Lords so destroyed the value of it by the "amendments" they introduced that it was thought as well to let the Bill drop altogether.

7. Liability of Land to Debts at Death (1833).

Before 1833 the freehold property of deceased persons who were not "traders" was not liable to the payment of debts contracted by the owners in their lifetime, unless they by deed or will expressly declared that their freehold property should be so liable. The effect of the law as it stood was, that whenever anyone who did not come within the category of a "trader" died, without expressly charging his freehold property with the payment of his debts, his creditors were liable to go unpaid if he left an insufficient amount of personal effects to discharge his debts. The injustice of this was palpable

to everyone. Nevertheless, as long as the House of Commons continued under the control of the House of Lords, it was in vain that attempts to mend matters were made. But immediately the Reform Bill was passed—in the first session of the new Parliament—this inequitable law was amended.

8. The Admission of Nonconformists to Degrees at the Universities (1834).

Before 1854 it was necessary for everyone who desired to take a University degree to make a declaration to the effect that he was a *bonâ fide* member of the Church of England. This debarred all Nonconformists from taking degrees who were unwilling to perjure themselves. In 1834 a Bill was sent up to the House of Lords to effect a change, by which Nonconformists, after studying in their own "Private Colleges" within the University, might be admitted to degrees. The Upper House rejected it upon the ground that it would "poison the wells of religion and virtue." For twenty years longer —until 1854—the House of Lords succeeded in resisting this relief to Nonconformists.

9. Irish Tithes (1834).

In 1832 a Protestant population in Ireland, numbering less than a million, whose spiritual wants were ministered to by four Archbishops, 18 Bishops, and more than 1,300 beneficed clergy, had found that their practice of levying tithes from their Roman Catholic neighbours for the support of their Establishment had completely broken down. Few

imposts are more unpopular than tithes, which are, as Paley observed, "not only a tax on industry, but a tax upon the industry that feeds mankind." When, in addition to natural objections of this kind, we find tithes being levied from a half-starving peasantry, who derived no religious benefit from the ministrations of those to whom they were compelled to pay—paid, indeed, to men whose business it was to oppose the religious convictions of those who paid —we can easily understand that serious disturbances would be likely to arise. No wonder, then, that things at last came to such a pass that even the Protestant Archbishop of Dublin was forced to admit "that the continuance of the system could only be at the point of the bayonet." The gravity of the situation was realised by the House of Commons, and in 1834 a Tithe Abatement Bill was sent up to the Lords, backed by 360 votes to 99. It contained certain clauses appropriating a portion of the tithes to national purposes. Most of the session had been devoted to the Bill; Daniel O'Connell had given it his strongest support; the Irish people were on the tiptoe of grateful expectation; but the House of Lords rejected the Bill. Certain clauses in it appropriated a portion of the ecclesiastical revenue to national purposes; these were especially palatable to the Irish people, but not until these clauses were excised from the Bill—the Bill in Irish opinion being thereby shorn of its chief merit—did the irresponsible Hereditary Legislators consent to pass it, on the fourth occasion of its appearance in their Chamber (1838).

10. The Municipal Corporations Bill (1835).

One of the most important measures of local self-government ever submitted to the consideration of Parliament was the Municipal Corporations Bill of 1835. At that time the great majority of the Corporations were representative only in name, the control over them being vested for the most part (in each municipality) in one or two individuals. The Bill of 1835 proposed to restore to the citizens their rightful control over their local administrative assemblies. It reached the House of Lords early in July of that year. After agreeing to hear counsel on behalf of the boroughs, the House of Lords next determined to hear witnesses, and on the conclusion of the evidence (8th August) the House went into committee on the Bill. They modified it by preserving the existing parliamentary and municipal privileges of freemen—the most corrupt element in the old unreformed boroughs. They introduced qualifications for the office of town councillor, viz. the possession of a certain amount of real or personal property. They endeavoured to introduce a clause requiring a fixed proportion of the town councillors to be elected for life (a sort of borough nobility!), and in effect succeeded, by insisting upon the creation of a fixed number of Aldermen in each Borough who, not being elected directly from without by the burgesses, are almost invariably re-elected.

11. Irish Municipal Corporations (1835).

The constitution of the municipal corporations of Ireland was formerly a travesty of the forms of

municipal liberty. They were mere Protestant oligarchies, and grossly corrupt. To remedy this, a Bill was sent up in 1835 to the House of Lords, establishing these corporations upon a representative basis. It there met the fate which so often awaits Irish measures in the hereditary chamber, viz. rejection. In the following year the House of Commons again sent the Bill up to the Lords. As flat rejection a second time might have caused angry feelings to arise, the Lords read the Bill a second time, and then "amended" it in Committee. Out of the 140 clauses which composed the Bill, the Lords in substance obliterated 106. The Bill was very naturally allowed to drop. Not until its *sixth* appearance before the Lords, in 1840, did the Bill pass, and then only because the House of Commons consented to abandon the English municipal franchise and accepted a £10 limit, whereby nine-tenths of the householders in Irish boroughs were excluded from a franchise they would have possessed in any other portion of the United Kingdom.

12. Custody of Infants Bill (1835).

A Bill was sent up to the House of Lords in 1835, having for its object the giving of the custody of young children in certain cases to the mother when a separation between the parents occurred. Till then the father always possessed the right to the custody of his children, notwithstanding that the separation between him and his wife might have been brought about solely by his own vicious conduct. As this was obviously unjust to mothers, the

Bill proposed, in cases where the mother appeared to be wholly blameless in the matter of such separation, to give the custody of the children to her. But the Lords disapproved, and they rejected the Bill. A year later they passed it.

13. The Lords in 1835.

The rejection and delay of Bills in 1835 by the Lords reached unusual dimensions, and caused considerable indignation. Daniel O'Connell, in a speech on the subject, said: "See what an immense quantity of useful measures have been stopped in the other House during the present Session. Take England. What has become of the Executors and Administrators Bill—a Bill of the utmost importance, doing away with some of the grossest absurdities of the law? It was cushioned. What has become of the Execution of Wills Bill? Cushioned. What of the Prisoners' Counsel Bill? Cushioned. What of the Imprisonment for Debt Bill? Thrown out."

14. Labour in Mines (1842).

A Parliamentary Commission, which sat to inquire into labour in mines, reported in 1842 that the sufferings of children in mines were "absolutely hideous"; that "under no conceivable circumstances was any one sort of employment in collieries proper for women"; and "that the hours of labour for men were practically unlimited and ought to be limited." A Bill giving effect to these views, and regulating labour in mines, was sent up to the House of Lords the same year. The hereditary legislators

displayed their consideration for the weak and suffering by emasculating the Bill in the supposed interests of the Mine Owners. As it was not a national nor even a party question, the friends of the labouring classes had no choice but to accept the Bill in its mutilated state. Not until thirty years later—1872—did the Lords pass a Bill providing that proper care should be taken of the lives of those engaged in these dangerous occupations. Lord Shaftesbury, who watched the Labour in Mines Bill in both Houses, wrote: "Never did one body present such a contrast to another as the House of Lords to the House of Commons—the question seemed to have no friends in the House of Lords; even those who said a sentence or two in its favour spoke coldly. The Bill passed through Committee far worse than they found it. Never have I seen such a display of selfishness and frigidity to every human sentiment."

15. Education for Pit-boys.

In 1860 certain clauses of a Bill, which came before the Lords, provided for fixed hours of instruction for little pit-boys. The Lords struck these clauses out, and thus for twelve years more debarred these little fellows from obtaining the same education as other children. The clauses rejected by the House of Lords in 1860 were eventually passed by that chamber in 1872.

16. Tenants' Improvements Security Bill (Ireland) (1845).

In 1843 a Commission composed exclusively of landlords—the Devon Commission—was appointed

to inquire into the grievances of the Irish tenants. The Commission reported (1845) in favour of securing to tenants the value of their improvements, declaring that "if some measure of this kind were passed it would much strengthen the industry of the people of Ireland." In the same year that this report was presented, Lord Stanley—the Colonial Secretary of a Conservative Government—laid before the House of Lords a Bill based upon the suggestions of the Commission, and he made use of these words: "The remedy for the evils of Ireland is not emigration, but a system under which the tenant could be induced to invest his labour and capital in the land." The Bill was read a second time, referred to a Select Committee, and abandoned, in consequence of the strong feeling manifested against it by the House of Lords. In 1854 a very similar Bill was sent up to that chamber, having for its object to secure to the tenant compensation for putting up farm buildings and fences, for reclaiming waste lands, and making roads (*see* "Parliamentary History of the Irish Land Question," by Barry O'Brien, p. 73). This Bill, which had already passed the House of Commons once in 1853, was also rejected. Had either of these Bills been passed, it would have gone far to satisfy the demands of the Irish peasantry. No doubt the peasantry were claiming a further right of property in their holdings—akin to the right of English copyholders—which neither of these Bills recognised, but which the peasantry, supported by the tradition of centuries, were struggling to substantiate. Though neither of

those Bills attempted to deal with *that* question, they dealt with many evils that pressed heavily upon the Irish tenantry, and either of them would have been most eagerly welcomed in Ireland. But the House of Lords would not yield, and they were both rejected. For a time the position taken up by the Lords appeared to be completely successful. The next Irish Land Bill that came before them—1860—came shackled with every sort of condition and proviso. Compensation for improvement was hedged all round with the landlord's previous consent, and the relations of landlord and tenant were completely regulated upon the doctrine of "freedom of contract" as it is called. It was nothing more nor less than a total adoption of the landlord's view of the situation. The Act, as might be expected, would not work, and ten years later fresh legislation in reference to this question, conceived in a different spirit, had become necessary.

17. The Repeal of the Corn Laws (1846).

The Bill for the Repeal of the Corn Laws (1846) stands out as one of the striking exceptions to the general rule that important measures meet with rejection when first submitted to the consideration of the House of Lords. But when closely examined, this exception is rather apparent than real. For in 1839 Lord Brougham moved a *Resolution* in the House of Lords in favour of Free Trade and of the Repeal of the Corn Laws, and supported his Resolution in a speech replete with argument and force. In the Division which followed *not a single Peer*

went into the Lobby with Lord Brougham. In 1843 the advisability of repealing the duty on corn was again debated in the House of Lords, and on this occasion *five noble Lords* voted in favour of a Resolution approving the repeal of the Corn Laws. Three years later (1846), the Bill, introduced by Sir Robert Peel, for the Repeal of the Corn Laws, came before the House of Lords for the first time. Strange as it may seem, the Lords passed it. The Duke of Wellington, who led the Tory party, gave the word of command, and he was obeyed. As it has been humorously put, the Duke simply said, "My lords, attention! right about face! quick march!" and the Corn Laws were repealed. The fact was that it had become impossible to carry on the Government without repealing this protective tax, for no Ministry opposed to Free Trade could be formed; and the Duke, stating that "the formation of a strong Government was more important than a Corn Law, or any other law," brought the requisite pressure to bear upon the Peers. Thus, by the united action, sagacity, and firmness of many leaders, after a struggle continued over eight years, the Corn Laws, boldly called by the *Times* (in those days) the Devil's Laws, came to an end.

18. The Parliamentary Oath (1847).

The election of Baron Rothschild for the City of London in 1847 brought up the question of parliamentary oaths; for Baron Rothschild, being a Jew, was unable to take the oath in the ordinary form. A Bill to modify the oath, so as to admit of its being

taken by a Jew, was at once passed by the House of Commons and sent up to the House of Lords. There it was rejected, the Lords declaring that they "would not unchristianise the Legislature." Year after year the Bill was sent up, and year after year it was rejected. In 1858 the Lords arranged the matter, not by accepting the Bill, but by what they called a compromise. They agreed to pass a Bill empowering each House by resolution to modify its oath in favour of Jews. The House of Commons accepted these terms, and in accordance with the Act amended their form of oath.

19. The Extension of the Irish Franchise (1850).

Strange as it may seem, it was actually a condition of Catholic emancipation that some 200,000 Irish voters should be permanently disfranchised. So restricted was the Irish franchise that in 1850 only 2 per cent. of the adult males in Ireland were voters, while in England the proportion of voters to adult males was as high as 28 per cent. In that year a Bill was passed by the House of Commons, and sent up to the House of Lords, having for its object the extension of the Irish franchise to an £8 rental qualification. The Lords altered the limit to £15, but eventually consented to lower it to £12. The difference between an £8 and a £12 rental qualification excluded 90,000 voters from the franchise.

20. The Abolition of the Viceroyalty of Ireland.

The Lord Lieutenantcy of Ireland, commonly called the Viceroyalty, is an office which has existed

from an early period. The salary attached to it is £20,000 a year, and the Viceroy keeps up a small Court in Dublin. When the Union of the Legislatures of Great Britain and Ireland was carried in 1800, we might have expected that the Viceroy and his Court would have been abolished. Instead of that, the Viceroy and his Court remained, just as if Ireland were a separate Kingdom. In 1850 a Bill to abolish the Viceroy and his Court was passed by the House of Commons by 295 votes to 70, and was sent to the House of Lords for approval. There it was rejected without even a division. If the Lords had desired to re-establish a separate Legislature in Ireland, there would have been some method in their proceedings. But we know from their general attitude towards "Home Rule" that such was the last thing they desired. Could the force of folly further go?

21. Legacy and Succession Duties (1853).

The selfishness of the policy pursued by the Hereditary Chamber, and its unchanging character in this respect, is nowhere more apparent than in its dealings with the Legacy and Succession Duties. In 1770 Mr. Pitt introduced a Legacy Bill, with the purpose of re-adjusting the Probate Duty, a tax levied upon the "personalty" (*i.e.*, movable property) of deceased persons. Probate duty had been first imposed in 1694. His intention was to extend the levy of this duty to all property so as to include "realty" (*i.e.*, lands and houses), which hitherto had escaped payment. But before the Bill left the House of Commons it was hinted to Mr. Pitt that

it would be expedient for him to divide his measure into two—one relating to Realty and one relating to Personalty. This suggestion was significant of what was likely to occur in the Upper House. The change was made and the contemplated reform came before their lordships in two separate Bills—one altering the duty levied upon Personalty, the other authorising the levy of a duty of similar amount upon Realty. The first Bill, taxing personal property, they passed readily enough, but the Bill which proposed to tax lands and houses they rejected. The House of Commons, as was its bounden duty in those days, meekly obeyed instructions from above (*see* par. 4), and accepted the position. For seventy years longer the broad acres of the nobility continued exempt from Succession Duty. Mr. Gladstone, who was Chancellor of the Exchequer in 1853, holding that it was scandalous that the property of the wealthy should escape taxation at death, while the personal goods and chattels of anyone leaving £100 worth of property were liable to such taxation, sought to revive Mr. Pitt's proposal, and under the name of Succession Duty proposed to tax the real property of deceased persons in the same way—subject to certain variations in the mode of assessment and payments—as personalty is taxed. He anticipated from his proposed new tax an increase of the revenue of £2,000,000 per annum. Lord Cairns prophesied that the new duty would produce £8,000,000 annually. But the Lords had to be reckoned with, and they "amended" the Bill. Need we add that the Succession Duty never pro-

duced in any one year more than £800,000? It was not until 1894, when Sir William Harcourt carried, in the Budget, the Estate Duties, commonly called the Death Duties, that real estate paid its full share of the Probate Duty.

22. Church Rates (1858).

The levy of two shillings in the pound sterling upon the parishioners of Braintree, in Essex, in 1843, for the renovation of their parish church, started in earnest the battle of church rates. From that moment the question of the abolition of church rates began to be actively canvassed throughout the country, and in 1858 a Bill for their abolition passed the Commons and was sent to the House of Lords. There it met with the fate common to new measures, and was rejected. For the next ten years the Lords were successful in delaying the passage of this measure, thereby stirring up angry political feeling in the country and evoking bitter and widespread hostility against the Established Church. After repeatedly refusing to pass the Bill, the Hereditary Legislators surrendered in 1868.

23. Marriage with a Deceased Wife's Sister (1858).

The Act of Parliament which renders marriage with a deceased wife's sister null and void is one of the few measures for which we are indebted to the House of Lords. It was passed in 1835, and prior to that date such marriages were not void, but voidable only, and then only voidable during the *lifetime* of the parties to the marriage and upon the applica-

tion of their kin. How is it that the law as to Marriage with a Deceased Wife's Sister came to be altered in 1835? The history of the change throws a curious light upon the ways of the House of Lords, and is as follows:—

The law which first made marriage with a deceased wife's sister "voidable"—not "void"—was passed in the reign of Henry VIII. in order to enable the Sovereign to get rid of his wife, Catherine of Aragon. The statute of Henry VIII. rendered all marriages with a deceased wife's sister "voidable" on two conditions only. First, such marriage could only be voided during the lifetime of both parties. If not "voided" before that time they were absolutely valid marriages and the issue legitimate. Secondly, no one could take steps to avoid such a marriage, unless he (or she) was next of kin and could prove a presumptive loss of inheritance or title by such marriage not being "voided."

The Statute of Henry VIII.—hedged about as it was with these stringent conditions—was practically a dead letter. Not one in a thousand of these marriages was ever set aside. The poor, who suffered most by the Act of 1835, were totally unaffected by the Statute of Henry VIII. It was only the rich who had any inducements, for the sake of property or a title, to set the law in motion under the Statute of Henry; but in their case it was not regarded as a noble thing to do, and very rarely indeed were these marriages set aside.

It was, however, a question of title which led to the scandalous alteration of the law in 1835. In

1822 the Duke of Beaufort—having no male issue by his first wife, Georgina Frederica, the daughter of the Hon. H. Fitzroy and his wife, *Lady Anne Wellesley*—married secondly Emily Frances, daughter of C. C. Smith and his wife, *Lady Anne Wellesley*, widow of the Hon. H. Fitzroy. This marriage of the Duke's with his first wife's half-sister brought him within the Act of Henry VIII., and as he had a son, Henry Charles Fitzroy, who bore the title of Marquis of Worcester—father of the present Duke of Beaufort—both the Duke and the Duchess were anxious to secure beyond the possibility of dispute the title and estates for their son. The Duke's younger brother, Lord Granville Somerset, was married, and had a son, and the Duke and Duchess of Beaufort were afraid that Lord Granville Somerset might, in the interests of his son, take steps to void their marriage and render their son illegitimate and unable to succeed either to estates or title.

The Duke and Duchess confided their misgivings to Lord Lyndhurst, and in order to protect them against this unwelcome contingency, Lord Lyndhurst generously undertook to carry through legislation in their favour (*see* Campbell's "Lives of the Chancellors," vol. viii., p. 101). Lord Lyndhurst proceeded to make good his promise by drafting a Bill enacting that such marriages should no longer be voidable, but absolutely valid, and, not unnaturally, he introduced a *retrospective* clause, legalising all existing marriages of the kind. To this "retrospective" clause the measure really owed its existence, the rest of the Bill being merely framed as a

decent excuse for placing the validity of the Duke of Beaufort's marriage beyond all question.

To facilitate the passage of the Bill through the House of Lords, Lord Lyndhurst sought the support of Dr. Blomfield, Bishop of London, a great power at the time in the House of Lords, especially upon questions touching the Established Church. The Bishop perceived Lord Lyndhurst's necessity was his (the Bishop's) opportunity, and he accordingly offered Lord Lyndhurst his support upon *one* condition—that the measure should be recast so as to render such marriages for the future absolutely void! Provided this "right-about-turn" was agreed to, the Bishop undertook not to oppose the clause legalising existing marriages with a deceased wife's sister. As this suited the Duke of Beaufort and Lord Lyndhurst just as well, the Bill was recast, and it became law in 1835 (5 and 6 William IV. cap. 54). This Act betrays, on its very face, its unscrupulous origin, for the "preamble" begins, not as we should expect, namely, "to alter the law with respect to certain voidable marriages," but in this very remarkable and unexpected manner, namely, "to render certain marriages valid and to alter the law," etc. Here at once appears the real object of the Act, stated with delightful innocence in the preamble to the Act, namely, "to render certain marriages valid." As long as the Duke of Beaufort and his Duchess could secure the title and inheritance for their son, it mattered nothing, so the Bill in this unscrupulously changed form was passed into law.

Thus, in order to protect the succession to the Dukedom of Beaufort, marriage with a Deceased Wife's Sister became wholly illegal. First, we had the tentative, and in effect nugatory, Act passed to facilitate the divorce of Henry VIII. from his wife Catherine of Aragon, and secondly, the shabby Act of Lord Lyndhurst's, carried in 1835 merely to secure the succession of the Beaufort Estates and title to the late Duke, and effectually barring such marriages for the future. The House of Commons discovered, too late, the mistake they had made in accepting this Bill, and in 1858 they attempted to undo the evil by sending up to the House of Lords a Bill drafted upon the lines of Lord Lyndhurst's original measure. This Bill the Lords at once rejected. Again and again has the House of Lords been urged to modify this misbegotten piece of legislation, but they have proved obdurate. They have rejected proposals for its amendment in 1862, 1870, 1871, 1873, 1880, and in 1882. In 1883 the Bill passed its second reading in that Chamber, but was thrown out on the third reading through the influence exerted by the Archbishop of Canterbury.

24. The Paper Duties (1860).

Many can still remember when each copy of a newspaper paid a stamp duty of one penny; when on each advertisement there was a duty of 1s. 6d.; and when, besides these taxes, there was a heavy duty upon the paper or material on which the newspaper was printed. As very few persons could then afford to take in a paper, as sixpence was the usual

price of a daily paper, people clubbed together, and newspapers were lent round till they literally fell to pieces in the reader's hands. Of these duties the first to go was that upon advertisements—in 1836. Next—in 1855—the newspaper duty was taken off. The *Morning Post* and the *Daily Telegraph* were immediately started as penny papers, but they could not be made to pay, and it was obvious that the duty on the material itself would have to be taken off. In 1860 Mr. Gladstone, Chancellor of the Exchequer, dropped the tax on paper. The Budget was accepted, and went before the House of Lords. The hereditary branch of the Legislature disapproved of the abolition of the paper duty, but hesitated to restore it. However, the Lords were reassured by Lord Lyndhurst, who, in his eighty-ninth year, came down to the House and made a powerful speech, in which he proved satisfactorily to their lordships, that although they might not impose a tax, they were acting strictly within the limits of the Constitution in refusing to allow one to be abolished. The Lords were delighted and convinced, and by a large majority they voted that the tax should be retained, and, to use the words of Lord Beaconsfield, "they went home cackling as if they had laid an egg." Lord Palmerston was asked what he meant to do. "I mean to tell them," said he, "that it is a very good joke for once, but they must not give it to us again" (*see* McCarthy's "History of Our Own Times," vol. iii. p. 253). The House of Commons passed a series of resolutions condemning the course the Peers had taken as being uncon-

stitutional, and the following year their lordships permitted the duty to be dropped without a protest.

25. The University Tests Bill (1864).

By an Act passed in 1854 Nonconformists were admitted to the privilege of taking Degrees at the Universities, but they still continued debarred from enjoying any of the *emoluments* of the Universities, such as Fellowships, Scholarships, etc., by the existtence of religious tests which all would-be holders, without exception, were required to take. In 1864 a Bill for abolishing these religious tests was sent up to the House of Lords. It was rejected. In 1867 and in 1868 it met with a similar fate. In 1871 the Bill was ingeniously shelved by being relegated to a Select Committee to report upon it. In the following year, however (1872), the Lords yielded a grudging assent.

26. Artizans' Dwellings Act (1868).

In 1868 the House of Lords had before them a Bill of Mr. Torrens's, entitled Artizans' Dwellings Bill, the preamble of which stated that the object of the Bill was to provide for the demolition of such dwellings as might be unfit for human habitation, and for the building of other dwellings in place thereof. From this Bill the House of Lords struck out all the clauses relating to unhealthy habitations, leaving only some unimportant clauses, giving certain powers to local authorities to regulate street fronts, etc. The unimportant part of the Bill became law, and the rest was lost. Some seven years

later Sir Richard (now Lord) Cross—then Conservative Home Secretary—pulled these rejected clauses out of some pigeon-hole at the Home Office, and relabelling them "Artizans' Dwellings Bill," passed them through the House of Commons, and sent them up once more to the House of Lords. Coming from a Conservative Home Secretary, the House of Lords was more amiably disposed towards them; but the Bill was not allowed to pass without "amendment." One of the principles of the measure was that in any case where a dwelling should be condemned as unfit for habitation, the local authorities should have power to purchase it valued as a "site" only, the condemned structure being estimated only at the value it would bring as builders' materials. Lord Salisbury strongly opposed this principle of valuation as applied to condemned habitations, and it was expunged from the Bill. The result of this was that local authorities found themselves liable to make heavy losses if they attempted to exercise the powers sought to be conferred upon them by the Bill. Naturally the Act did not effect much.

27. The Irish Land Bill (1870).

28. The Compensation for Disturbance Bill (1880).

In the Irish Land Bill of 1870 some of the false steps taken in the Irish Land Bill of 1860 were retraced. Still, the Bill of 1870 was, when it left the House of Commons, very far from being a perfect measure. But imperfect as it was to begin with, still less perfect was it when it returned to the Com-

mons after running the gauntlet of the House of Lords. While passing through that Chamber no less than *fourteen* important alterations were introduced into the Bill, every one of which was a change in favour of the landlord. The House of Commons insisted upon many of these amendments being abandoned, but many remained; the diversion of public attention from home affairs by the Franco-German war greatly assisting the House of Lords in their efforts to reconstruct the Bill. Amongst other alterations introduced by the House of Lords, we may specially mention the removal from the Bill of certain clauses which permitted tenants to sublet portions of their farms to labourers in allotments. The House of Commons made a strenuous effort to save these clauses, but considering that some sacrifices were necessary to save the Bill, the Commons eventually consented to abandon them. The ill-judgment of the Lords in this matter is strikingly brought out by the fact that it was subsequently necessary to incorporate these clauses, almost word for word, in the Irish Land Act of 1881.

But the alteration of all others pregnant with disastrous consequences was the elimination by the Lords of a clause which enabled compensation for disturbance to be given in "special" cases, although the tenant might be behind hand with his rent. The Bill, when it left the Commons, provided that in *all* cases where tenants had been *punctual* in the payment of their rents, and were disturbed in their tenancy—that is, evicted, or, as we say in England, ejected—they should receive compensation not

exceeding the value of seven years' rent. It further provided that in *special* cases, although the rent might be in arrear, compensation to the tenant for eviction should nevertheless be payable. This important clause the Lords struck out. The House of Commons tried hard to save it, but without success; the Lords were obdurate. Time passed, and the evil effects of its loss were not immediately apparent. But bad seasons came, and with the failure of crops in Ireland in 1878 and 1879 thousands of tenants fell into arrear with their rents. Landlords took advantage of the opportunity thus offered them, of evicting their tenants without payment of compensation for disturbing them in their holdings. Failure of crops, and consequent famine, might be a special circumstance, entitling the tenant to consideration in spite of his rent being in arrear; but the clause was gone, and tenants were at the mercy of the landlords. Evictions increased from hundreds to thousands a month. In the season of their greatest need, numbers of Irish peasantry were turned adrift without even the payment to them of the balance that might be due for compensation for disturbance after setting off against it their arrears of rent. Nothing acted more powerfully than this unwise excision by the House of Lords from the 1870 Bill to cause the widespread agitation which afterwards prevailed in Ireland. Tenants might have been (say) two years in arrear with their rent, and had they not been so in arrear the compensation for disturbance due to them might have been (say) four or even seven years' rent. But the whole was forfeited by their

falling into arrear with the rent. On the accession of a Liberal Ministry to power in 1880, a Bill—The Compensation for Disturbance Bill—consisting of three short clauses, intended solely to supply this lacking clause, was passed by the House of Commons, and rejected by the House of Lords by 282 votes to 51. "It was an Act," said Mr. Gladstone, speaking of it a year afterwards, "which would have averted by far the greater part of the dangers and difficulties which have arisen. The Lords committed one of the most deplorable errors of judgment which in my opinion ever bewildered or misled a public assembly" (*The Times*, Aug. 19, 1881, *House of Commons Reports*). Can we be surprised that Irish suffering, and its outcome, Irish agitation, continued to increase?

29. The Ballot (1870).

But for the existence of the House of Lords England would have been the *first*, instead of being the last constitutional country to adopt the system of voting by ballot. In a letter dated 2nd February, 1708, Addison mentions that the House of Commons was then "engaged in a project for deciding elections by ballot." The Representative House had still retained much of its independence, for as yet the influence of borough-mongers had not paralysed the action of the Lower Chamber. Two years after the allusion, in Addison's letter, to the ballot project, the question had so far taken shape that a Bill which had received the approval of the House of Commons was sent up in due course to the House of Lords. There it met with prompt rejection, and the action

of the Lords was more than usually successful. More than a century and a half passed before they were again troubled with a Ballot Bill. In 1851 a motion in favour of voting by ballot did indeed pass the House of Commons by a majority of 37, but the uselessness of bringing the question before the Lords prevented its taking the form of a Bill. However, in 1870 a Ballot Bill went up once more to the Lords, supported by a large majority. The Lords rejected it again, basing their rejection upon the plea of want of time to consider the Bill. The next year (1871) the Bill was sent up again, and the Lords, feeling that rejection would no longer answer, sought, in the most refreshingly innocent manner, to render the Bill nugatory, by making voting by ballot *optional*. Of course the House of Commons would not agree to such an amendment as this, and the Bill was restored to its original form. To comfort themselves the Lords limited the operation of the Bill to seven years.

30. Married Women's Property (1870).

In 1870 a measure known as "The Married Women's Property Bill" passed the House of Commons, without even the challenge of a division. Thence it went to the House of Lords, and there the Bill was relegated to a Select Committee. When the report of the Committee was communicated to the House, Lord Cairns, in explaining the action of the Committee, naïvely remarked, "*The amendments alter the Bill so much that it will be convenient to explain them.*" Without demur the extensive changes introduced by a select committee

were accepted by the House of Lords, and the Bill was returned to the House of Commons. When it came on again for consideration in that Chamber, Mr. Russell Gurney, the author of it, said: "The Bill as it has come down from the other House is a new Bill, framed upon a different principle from that which left this House. This House proceeded upon the belief that the law by which a woman forfeited her property by the act of marriage was a bad law, and that great evils sprang from it, affecting both rich and poor. The other House admits the existence of these evils, but instead of repealing the law they have applied specific remedies to the more glaring of them" (*Hansard's Reports*, August 3rd, 1870). But it was now August, and any delay would have shipwrecked the Bill, so there was nothing to be done but to accept it, with all its imperfections and mutilations. Of course the measure as cut about by the House of Lords could not be accepted as a final settlement of the question, and after another twelve years of agitation upon the subject, a Bill was passed by both Houses (1882), disposing of the question upon the lines of the original measure introduced by Mr. Russell Gurney.

31. Purchase in the Army (1871).

The extraordinary ease with which the German Army swept over France in 1870-71 caused much apprehension to be felt as to the efficiency of the English Army. One of the immediate results of this feeling of insecurity was the passage of a Bill through the House of Commons dealing with Army

Purchase. By a majority of 58 the House of Commons determined to buy back from its officers the command of the English Army, and to substitute, for promotion by the purse, promotion by merit. To delay the measure the Lords passed an ingenious resolution, declaring that they were unable to consider the question of purchase, *until they had before them the whole scheme for the reorganisation of the army*. This is a favourite formula, only quite recently made to do duty to reject the Plural Voters Bill (1906) (*see* pars. 39, 44). Delay might have been dangerous in the then condition of Europe. It was a serious question what should be done. As purchase had never been legalised by Parliament, and rested entirely upon a Royal Warrant, Mr. Gladstone turned the flank of the House of Lords by declaring by Royal Warrant that purchase was abolished. Created by one exercise of the Royal prerogative, Mr. Gladstone abolished it by another, and recovered for the English people the command of their own troops.

32. The Burials Bill (1880).

The Burials Bill is one of the few important Bills passed by the House of Lords on its first appearance in that Chamber. Although not actually before the Lords in the form of a Bill before 1880, its passage had been materially delayed by them. For *ten years* before the Burials Bill became law, it had passed its second reading in the House of Commons, with a majority of 111 (1870). But the difficulties it was certain to encounter "in another place"

prevented its being laid before the Second Chamber. Several times the opinion of the House of Lords was tested by resolutions approving of the principle of the Bill, and as late as 1876 Lord Granville's resolution to this effect was rejected by 148 votes to 92. In 1880, however, the Bill was sent up to the House of Lords without having encountered even the challenge of a Division in the House of Commons. Under such circumstances it would, of course, have been most injudicious for the Lords to have offered any serious resistance to the Bill, and they accordingly passed it. But even then the Lords escaped from accepting the *principle* of the Bill by restricting its application to "Christian Services," thereby excluding Jews, Secularists, and others from the benefit of the Act.

33. Employers' Liability (1880).

No division was taken in the House of Commons upon the Employers' Liability Bill (1880). It therefore went up to the House of Lords, supported by the strongest approval the House of Commons could give it. This was sufficient to ensure its consideration, but not sufficient to protect it from being considerably mauled by the hereditary branch of the Legislature.

In order that the measure might not be lost, the House of Commons found it necessary to accept most of the Lords' amendments. "It is excessively inconvenient," said Mr. Broadhurst, when the Bill returned to the House of Commons, "that the House, after spending a great deal of

time over the Bill, should have its labours summarily overhauled in 'another place'; it was an inconvenience which he believed would not be long tolerated by the people of this country." (*Hansard*, Sept., 1880.) Sir Henry James, Attorney-General (now Lord James of Hereford) said:—"A Liberal House of Commons perhaps would seldom obtain from the House of Lords, as it was at present constituted, all it desired." Besides other "amendments," the Lords compelled the House of Commons to consent to the operation of this Bill being limited to *two years!*

34. The Irish Land Bill (1881).

We have already seen to how great a degree the House of Lords was responsible for the Irish agitation of 1878-80, which resulted in the whole of the Session of 1881 being devoted to the consideration of the Irish Land Question. Thirteen hundred hours of the time of the House of Commons were taken up in 1881 in the consideration of the Irish Land Bill alone. When the Bill reached the House of Lords, it was supported by such an overwhelming body of public opinion that its rejection was not to be contemplated. So the Lords passed the second reading, and then proceeded *con amore* to hew Agag in pieces in Committee. Their labours were so successful, that when the Bill returned to the Commons, it had assumed a totally different character. Supported by the strongest expressions of public approval, the House of Commons restored the Bill in the main to its former condition. Upon its return

to the Lords, Lord Salisbury placed himself once more at the head of his majority of irresponsible legislators, struck an heroic attitude, and proceeded to mutilate the Bill afresh. It was most dangerous ground to take up, for it laid the Lords open to the charge of defending merely their own personal interests; but however bad the position chosen by the Peers might have proved as a battle ground, in the interests of Ireland postponement of the Bill was wholly out of the question. So the House of Commons, having struck out again about ten important amendments re-introduced by the Lords, provided a golden bridge for their retreat by accepting certain others. The Lords thereupon submitted. The following extract from the *St. James' Gazette* (16th August, 1881), although, of course, a one-sided account of the actual effect of the alterations introduced by the House of Lords, shows, nevertheless, that they were able to effect some material changes:—"They" (the House of Commons) "were willing to assent to the very material amendment relating to access of the landlord to the Court, to Lord Pembroke's amendment with reference to the deterioration of holdings, to the amendment allowing appeals by leave of the Court, to the amendment which struck out Mr. Parnell's provision for suspending evictions during appeals to the Court, and, lastly, to the vital and widely comprehensive amendment of Lord Salisbury, to the effect that 'any sum paid for tenant right should not of itself, apart from other considerations, be deemed to be a ground for reducing or increasing the rent.'" Sub-

ject to these serious blemishes, the Bill, for which Mr. Gladstone struggled with undaunted energy and admirable resource many whole nights, through six long months, became law—a wonderful monument of human exertion!

35. Oxford and Cambridge Universities (Statutes) Bill (1881).

This Bill was introduced to provide for the discharge of the duties of the Oxford and Cambridge Commissioners, whose power lapsed on the 31st December, 1881. In the place of the defunct Commissioners, the House of Lords proposed to substitute the two Chancellors of the Universities, the Archbishop of Canterbury, the Lord Chancellor, Lord Spencer, and one other person to be nominated by the Crown. Those who knew the thorough and searching reform needed by the old Universities, objected that some of the members proposed were unacquainted with the subject, and that the time of some of the others was too much occupied. The House of Commons accordingly added an amendment to the Bill, giving the Crown—in other words the Prime Minister—power to strengthen the Committee by the addition of two members. Lord Salisbury hurried back from Dieppe on the very day before the close of the Session, and hastily summoning by telegraph a few score Conservative Peers to the rescue, he went down to the House of Lords and rejected the Bill (sent up to them for final consideration) by nearly three votes to one.

36. Shadwell Market Bill (1882).

The House of Lords and the Corporation of the City of London are old and tried friends. In 1882 a Bill came before the House of Lords, which was calculated to break down the fish monopoly of Billingsgate. The Corporation disliked the Bill. The House of Lords took the hint, and quickly transformed it. They introduced clauses compensating the Corporation for any loss resulting from the establishment of the new market, and further gave the Corporation powers to appropriate the new market if it proved a success. So that, if it should beat Billingsgate out of the field, the Corporation might come in and succeed to the new market. Nothing could be better calculated to destroy any prospect of success Shadwell Fish Market might otherwise have possessed. Instead of seeing how they could best bring a supply of wholesome food to thousands of Londoners, they busied themselves about protecting the interests of a rich corporation.

37. The Arrears Bill (1882).

After the Irish Land Bill of 1881 was passed, it was found that another measure was still needed, one dealing with the arrears of rent which had accumulated in the famine years of 1878 and 1879. Such a Bill was required in order (1) to release the insolvent tenants from their liabilities by a composition; (2) to stop evictions for the recovery of rent, and (3) to secure landowners a portion of their otherwise irrecoverable arrears of rent. There were two principles upon which relief might have been given to

the tenantry: (1) as a gift with compulsion, or (2) as a loan with an option to those interested as to whether they would take advantage of it. After debating the question for nearly three weeks, the House of Commons adopted the principle of relief by gift, and eventually the measure embodying this principle made its appearance in the House of Lords. There it was read a first time on a Saturday. The second reading took place on the following Tuesday, and after three hours' debate, in which the principles of the Bill were not discussed at all, the Bill was read a second time without a division. After this, one might have assumed that the House was satisfied with the propriety of the means by which the Bill proposed to obtain its objects, as well as of its necessity. Not so, however, for on going into Committee the House adopted an amendment moved by Lord Salisbury, giving the landlord power to veto any application made by his tenants under the Bill, thereby accepting the principle of gift, but negativing its corollary, compulsion. The next day the Bill, now useless to the tenant, passed its third reading, and was returned to the House of Commons, and Lord Salisbury had the arrogance to demand that the House of Commons should eat its own words and reverse its deliberate votes repeatedly given, because 169 noble Lords, who had not even carefully read, much less studied the Bill, had seen fit to give their support to Lord Salisbury. Mr. Heneage, M.P. (now Lord Heneage), said (see *Times*, 4th August, 1882), "I should like to call attention to the very arrogant and reckless language

of Lord Salisbury, especially his last speech, when he deliberately stated that it would *not be his fault*, but Mr. Gladstone's obstinacy, if there was any difficulty in passing the Arrears Bill, and seems to think that because he rules supreme with his obedient following, therefore he can not only force Mr. Gladstone to stultify himself, but compel the House of Commons to follow him if he does so. He wants to humiliate not only Mr. Gladstone, but the House of Commons." Fortunately the House of Lords flinched when called upon to support Lord Salisbury, and after a few minor points had been compromised the Bill passed substantially unchanged.

38. The Pigeon Shooting Bill (1883).

In 1883, Mr. Anderson (M.P. for Glasgow) passed through the House of Commons his "Cruelty to Animals" Bill, which was intended to put an end to the so-called sport of pigeon shooting. When speaking on the second reading of the Bill, Mr. Anderson pointed out the need of such a measure in the following terms:—"Formerly blue rocks were the birds used. Now the tame household pigeon has been substituted. Some of these are so tame they refuse to rise, and it is necessary to use a spur. The trapper wrenches out the tail, and frequently touches it with pepper or turpentine. Sometimes the trapper sticks a pin into the rump of the bird. If the trapper wants the bird to fly to the right he destroys with a pin its left eye, or gouges it out with his finger nail, knowing the bird will fly to the side it can see. If he wants to utterly

confuse the bird he puts out both eyes or bends the upper mandible and sticks it through the lower." (*Hansard*, 7th March, 1883.) What said the noble Lords to this? Lord Denman said, "There is a certain amount of pain in every field sport. This lingering death may be prevented by public opinion, but cannot be prevented by legislation. Indeed, I am ashamed at taking up time on such a subject." Lord Fortescue said, "It is a frivolous Bill, and it is trifling with the time of Parliament to bring it forward." (*Hansard*, 17th August, 1883.) After this lofty defence of pigeon shooting, the House of Lords rejected the Bill by more than two to one. The same thing occurred again in 1884. And to this day the Bill has never been passed, thanks to the House of Lords. It is worthy of remark that not a single bishop, in his Christian charity, thought it worth his while to record a vote in favour of this measure.

39. The Franchise Bill, 1884.

The second reading of the Franchise Bill, 1884, was carried in the House of Commons without a division. The first great division, upon the question of reserving "redistribution" for a separate measure, gave the Ministry a majority of 130. The second great division, upon the question of suspending the operation of the Bill until the passing of a Redistribution Bill, gave the Ministry a majority of 114. The third great division, upon the question of excluding Ireland from the operation of the Bill, gave the Ministry a majority of 195. A fourth attempt

to water-log the Bill, upon women's suffrage, was defeated by a majority of 136. When the third reading was reached not a solitary voice was heard against the Bill. Then it "passed from friends to enemies—from smooth waters into breakers—from sunshine into bleak and cheerless regions, where the hopes of the nation have many a time before been withered." In the House of Lords the Bill was rejected upon the second reading by a majority of 59. The Peers eventually consented to pass it, on condition that a Bill for the Redistribution of Seats was passed at the same time. (See par. 31.)

40. Railway Bills and other Commercial Enterprises.

It would be tedious in the extreme to go through the long list of railway and other commercial enterprises which the Lords from time to time have either marred or extinguished, or rendered extremely costly through rejection and delay. But we may notice that the first projected tram railway from Whitton to Stockton was rejected by the Lords, in 1818, because it was feared it would disturb the fox covers of the Duke of Cleveland ("Life of Stephenson," Smiles, p. 125.) And in more recent times, the Letterkenny line (Ireland) was refused, in 1879, at the instance of Lord Redesdale, because it was a narrow-gauge line, and his lordship thought that a country which was too poor to go to the expense of constructing a broad-gauge line had better remain without any at all.

41. The Home Rule Bill (1893).

On 13th February, 1893, Mr. Gladstone introduced in the House of Commons the Home Rule Bill, which proposed to create a legislative body to sit in Dublin, dealing with affairs exclusively Irish, and reserving to the British Government certain powers affecting the Crown, Army, Navy, and Foreign and Colonial Affairs. This Bill passed the House of Commons by a majority of thirty-four, the Liberal majority then being forty, if everyone voted. The question of Home Rule had been discussed for years, ever since the first Home Rule Bill of 1886, so that there was no doubt about the question being fully before the country. But the Lords, who previously had said that they would not stand in the way of Constitutional Reform if the country clearly expressed its opinion, then said in justification of their rejecting this Bill, that nothing less than *an overwhelming majority* in its favour would satisfy them. The *Times* went the length of advocating (19th December, 1894) that the Lords might reject important measures, unless they had the support of "the great majority of *both parties* in the House of Commons. Such a conjunction of forces is *the only evidence* of the National Will." But as on matters of prime importance "both parties" never agree, such an outrageous claim is tantamount to making important legislation impossible. The Home Rule Bill was the main work of the Session of 1893, and was discussed for 82 days in the House of Commons. When it got to the House of Lords it was discussed for four days, and then rejected upon the second read-

ing, and its details never considered. The Lords threw it out by 419 votes to 41. The votes of these 419 Peers, who represent no one but themselves, outweighed the majority of the House of Commons, which *is* representative of the voters of the United Kingdom. Mr. Balfour himself described the Government which introduced the Home Rule Bill as "elected for Home Rule." But the Lords used their veto, and the Bill was lost. It is worth bearing in remembrance that Lord Salisbury, in October, 1885, when the Home Rule question was first seriously discussed, stated, at Newport, that of the two things, Local Government would be "even more dangerous in Ireland than Home Rule itself." Yet, after this deliberate statement, made on a most important occasion, Lord Salisbury's own Government, in 1898, gave to Ireland what was "more dangerous than Home Rule." Speaking of this change of attitude, Sir Henry Campbell-Bannerman said "the Unionists themselves have knocked the stuffing out of the old scarecrow" of Home Rule.

42. The Parish Councils Bill (1894).

The Parish Councils Bill was introduced into the House of Commons 2nd November, 1893. It passed the second reading without a Division on 7th November, and went to the House of Lords in January, 1894. There it passed the second reading without a Division, and then the Lords began to mutilate it; and it was returned to the House of Commons with many amendments which greatly impaired its value. After examining in detail the

amendments of the Lords, Mr. Gladstone said: "We feel that this Bill is a Bill of such value that upon the whole, great as we admit the objections to be to the acceptance of these amendments, the objections are still greater and weightier to a course which would lead to the rejection of the Bill. We are compelled to accompany that acceptance with the sorrowful declaration that the differences, not of a temporary or casual nature merely, but differences of conviction, differences of prepossession, differences of mental habit, and differences of fundamental tendency between the House of Lords and House of Commons, appear to have reached a development in the present year [1894], such as to create a state of things which we are compelled to say, in our judgment, it cannot continue." Eventually most of the Lords' amendments were withdrawn, but several had to be accepted to save the Bill. Sir Henry Campbell-Bannerman, speaking on the Lords' amendments to the Bill, said, "On every one of the points at issue the Lords have been asserting the obsolete privileges of their order, and the selfish interests of themselves and their friends." (February, 1894.)

43. The Lords' Record for the Session of 1893–4.

(From the *Westminster Gazette.*)

1. Rejected Home Rule.
2. Rejected the Land Transfer Bill.
3. Mutilated the Railway Servants' Hours Bill by excluding men employed in railway shops and factories from its benefit.
4. Rejected "Betterment" (the principle by

which owners of property are made to pay something towards public improvements by which the value of their property is increased).

5. Refused to allow Lincoln's Inn Fields to be opened to the public.

6. Denied the London County Council the right to be represented on the Thames Conservancy Board.

7. Rejected the charter for the creation of the University of Wales because it did not include St. David's College, Lampeter, a Church of England and sectarian institution.

8. Mutilated two county schemes for intermediate education in Wales.

9. Destroyed the chief feature of the Employers' Liability Bill.

10. "Riddled" the Parish Councils Bill with amendments in the interests of the landlords and the Church of England.

11. Mutilated the Scottish Fisheries Bill, which passed the House of Commons practically without opposition.

44. The Plural Voters Bill (1906).

One of the Bills sent up to the Lords, in the Autumn Session of 1906, was the Plural Voters Bill. This measure, to limit Parliamentary electors, who happen to be qualified to vote in more than one constituency, to the use of one vote only, has for many years past been what is called a "plank in the Liberal platform." As long ago as 1885 (29th January, at Birmingham), Mr. Chamber-

lain said: "I am in favour of the principle of *one man one vote*, and I object altogether to the plural representation of property. I am a terrible example. I have three votes for as many borough constituencies, and I have three votes for as many county constituencies. I consider that an anomaly, altogether inconsistent with the principle upon which we stand. That principle is that every householder, at all events, has an equal stake in the good government of the country. If we are to make a distinction, I am not quite certain whether it is not the poor man who ought to have more votes than the rich one." One voter may have a large property all of it situated within one constituency, while another voter with much less property scattered over half a dozen constituencies may have half a dozen votes. A forty-shilling freehold—that is, a small freehold property which brings in a rent of £2 a year, and which can be bought for £50—entitles the owner to a county vote. So a great number of well-to-do persons purchase tiny freeholds in various constituencies in order to double, treble, quadruple or quintuple their voting power. Undoubtedly the large majority of these voters are Conservatives, and hence the objection of the House of Lords to the Bill. But the Lords have taken up an indefensible position, and it has been rendered the more difficult for them to maintain it owing to the fact that when Lord Salisbury's Government passed the County Council Act (1888), they limited the right of electors to one vote, and one only. The Lords accordingly were in a difficult position as to the Plural Voters Bill,

but they crept out of it by rejecting the measure on the well-worn ground (see par. 39) that the Lords "declined to take into consideration a measure which, while professing to remove an anomaly in our electoral system, does nothing to remove the most glaring inequalities in the present distribution of electoral power." The Lords are so sensitive about anomalies that they cannot see one removed unless they are all removed at the same time. This resolution, which destroyed the Bill, invites the following observations: (1) Why should not an "anomaly" (that is, an "irregularity") in our electoral system not be removed because others exist? (2) The removal of these duplicate votes from the Registers throughout the country would help towards the preparation of a scheme for equal electoral districts, which the Lords affect to desire. (3) This whole question is one especially for the House of Commons. It relates entirely to elections for the House of Commons, and not to the House of Lords at all, unless they regard themselves merely as "a wing of the Tory Party." (4) This Bill would have gone far to put an end to the absurd anomaly of "University Members."

45. The Nine Tory University Seats (1906) and the Plural Voters Bill.

The passing of the Plural Voters Bill would have led to the early abolition of the nine University seats. These seats are of a peculiar and abnormal character, and if all Electors were restricted to the right to use but one Parliamentary vote, just as they

are restricted to use but one vote for a County Council Election, the number of University Electors would shrink to so few that these seats would have no justification for their continued existence. Those who do not know the Universities do not understand how all these seats come to be held by Tories, but the solution of the problem is not obscure. Even in their best days, the University vote consistently excluded great men who showed any inclination for progress. Sir Robert Peel, George Canning, and Mr. Gladstone—three Prime Ministers—were each rejected by the University of Oxford. It is enough to condemn the system of University representation. But what is the cause of it? The cause is this. If the Universities had restricted their electoral roll to those who resided in and carried on the teaching of the Universities, such catastrophes would never have happened. These great men got the votes of the majority of the *resident* workers in these hives of learning. They were ejected by the non-resident voters, mostly country clergy in the case of the Universities of Cambridge and Oxford. When the ordinary layman takes his degree, he in most cases removes his name from the College Books, and thereupon and thereby loses his vote. But the Clergy, for reasons connected with advancement in their profession, find it desirable to keep their names on the books, and they thereby keep their votes for the Parliamentary representatives of these seats of learning. Accordingly at Cambridge and Oxford, the country clergy hold the representation of the Parliamentary seats in the hollow of their hands. In

Scotland it is very similar, though in the case of the Scotch Universities it is not the clergy, but the English country medical men, very many of whom take medical degrees there. The English country doctor finds it extremely hard to be anything but a Tory; for if he were a Liberal he would not get on well with the 'squire, the parson, and the country farmers. So in most cases he resigns himself to his fate, and, like the trout which takes its colour from the stream, lapses into a thorough-going Tory.

The value of University representation was well appraised by the late Mr. Lecky, a Conservative, and sometime M.P. for Dublin University, when he wrote that "the political influence of the Universities has been almost uniformly hostile to political progress." ("History of England in the Eighteenth Century," Vol. III., p. 215.)

46. The Education Bill (1906).

The first great Education Act (1870) gave fee grants for education to all Elementary Schools, and these grants went a considerable way towards the support of these schools. The Act further provided that, in all cases where the balance of the funds required for Elementary Schools was provided by a Rate, the school should be managed by a Committee (School Board) elected by the ratepayers, and that, in other cases, where the balance of the funds was privately subscribed (Voluntary Schools), *the Subscribers* should appoint the School Committee. In 1902, Mr. Balfour carried the second important Education Act, under which (1) the Com-

mittees of what were formerly known as Board Schools were no longer elected by the local ratepayers but appointed by a Committee of the County Council for the district; and (2) the balance of cost for the maintenance of Voluntary Schools, over and above what the fee grant provided, was placed upon the Rates. But, instead of enacting that the County Council should appoint the whole or a majority of the Committee for each Voluntary School, the Act empowered the County Council to appoint *two only* of the managers *out of every six* in these cases—thus, in effect, requiring the ratepayer and taxpayer to provide the whole up-keep of these schools, and yet be represented on these Committees by two managers out of six. Archbishop Temple warned the clergy that if they got on "the slippery slide" of Rate-aid, their control over the schools would pass to the public. But Mr. Balfour rashly legislated so as to put the full cost of maintenance upon the public—the taxpayers paying the fee grants and the ratepayers the balance necessary to maintain the school teaching—while leaving the few subscribers to Voluntary Schools the right to appoint four out of every six managers. This placing of the Voluntary Schools upon the Rates, while leaving the control of them in the hands of the clergy through a few subscribers, caused intense irritation and led to the Education Bill of 1906, which the Lords rejected. The real fight was waged over what is known as the Cowper-Temple Clause of the Act of 1870, under which all teaching in Board Schools is regulated. This clause was suggested in 1870 by the Head-

masters of some of the leading English Public Schools (see the *Times*, 23rd May, 1870), and under it the Religious Teaching given has generally been that of "selected hymns, passages from the Holy Scriptures, the Ten Commandments, the Lord's Prayer, and other simple prayers." The catechism of the Church of England Prayer Book has not been taught. In 1870, little or no objection was taken by Church people to the Cowper-Temple Clause, the objections to it then coming from the Nonconformists, who thought the State should not concern itself with religious teaching. Now, after the lapse of a generation, a number of the Prelates and the Clergy, and a small but noisy section of the laity of the Church of England, are dissatisfied with this teaching, and want the Church catechism and other special Church teaching.

The passages of Scripture selected are such as the Parable of the Sheep and the Goats, Matthew, chap. 25, v. 32-46. "I was an hungered, and ye gave me meat: I was thirsty, and ye gave me drink: I was a stranger, and ye took me in: Naked, and ye clothed me: I was sick, and ye visited me: I was in prison, and ye came unto me." Many of the Prelates and Clergy now seem to regard such teaching as no test of Christianity, for they call it "Undenominational," and "Cowper-Templeism." As to which Canon Page-Roberts has well said: "It cannot be denied that the elementary truths of the Gospel are accepted by all the various Christian denominations. It cannot be denied that these elementary truths are the necessary bases

for all the various denominational theologies and disciplines. It can scarcely be denied that these elementary truths are presented to the minds of all who read the Gospels. But the Gospels are read in Cowper-Temple schools, and this Gospel-reading is called undenominationalism. It ought to be called Pan-denominationalism—in other words a very Catholicism. It is not a new religion any more than the Lord's Prayer is a new religion. It is the necessary foundation of all the Christian forms of religion; upon which it remains for the Clergy to build their distinctive superstructures."

At the present day, when there are a larger number of scholars in attendance at Nonconformist Sunday Schools than in Church of England Sunday Schools, it is of the first importance that the differences which divide their parents in Church and Chapel should not be introduced into the Elementary Schools, where children of tender age should not be split up into separate religious folds. The House of Commons read the Education Bill (1906) by a majority of *two to one* (410 to 204), and a third time by a little more than two to one (369 to 177). When the House of Lords returned the Bill amended out of all recognition, the House of Commons disagreed with the amendments of the Lords by *four to one* (416 to 107). There can be no room for doubt in the minds of the Lords as to what the opinion of the people of the United Kingdom is, yet the Lords rejected the Bill by 132 votes to 52. (See Appendix E.) Lord Hugh Cecil, who belongs to the extreme High Church section of the English

Church, called it a "precious victory"; but Mr. Leverton Harris (ex-M.P., Conservative, for Tynemouth) has written of it—"Politically the Conservative Party has made a profound tactical blunder, which is both recognised and regretted by the majority of its followers."—*Times*, 2nd January, 1907.

The extraordinary position the great majority of the Bishops and a section of the Clergy take up is, that the teaching of the Bible is insufficient—and, for them, it seems, the Bible is no longer a Divine Book which carries its own Divine message.

47. Mutilating Measures.

The measures we have already commented upon are given as illustrations of the way in which the House of Lords has *retarded* legislation by rejection, or by what Lord Salisbury preferred to call the *suspensive veto*. It would be tedious to any reader to follow the endless array of Liberal measures which the Lords have interfered with in one way or another during the past eighty years. Moreover, such an enumeration, even if complete, would convey but an imperfect idea of the effect of the power of rejection which the Lords possess. Year after year many a Bill perishes before it has left the House of Commons, blighted even in that Chamber by the mere prospect of mutilation, which destroys even by anticipation. Busy energetic men cannot be expected to assemble together, night after night, to carefully frame and elaborate legislative measures when they feel absolutely certain that their labour

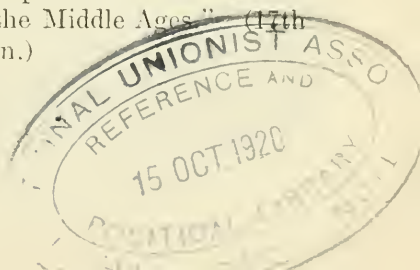
will be wasted as soon as their work is submitted to another Chamber. Said Mr. Chamberlain, at Birmingham (4th August, 1884): "During the last century the House of Lords has never contributed one iota to popular liberties or popular freedom, or done anything to advance the common weal, and during that time it has protected every abuse and sheltered every privilege."

Even when Liberal measures do make their appearance in the House of Lords it is too often after they have had their value seriously impaired, in order that they may be rendered palatable to their Lordships. "Liberal measures," says Sir C. Dilke, "are often half dead before they leave the Commons, on account of the unworthy and unworkable compromises introduced into them beforehand to lessen the opposition of the Peers. In order to give many measures a chance of surviving the hostility of the Upper Chamber, they are cut down almost to the water line, and then euphemistically called 'mildly framed,' which 'too often only means badly framed,' the promoters of many Bills having to accept the most ridiculous amendments because it pleases the Conservative leaders to make them." (Parliamentary Reform.)

But the House of Lords possess another weapon, far more potent than the "suspensive veto"—which Lord Salisbury used to ask us to believe was the limit of their power—they possess the power of "amending" Bills; and were we to follow their "amendments" during the last eighty years we should quickly fill a bulky volume. The Lords know full

well that the electors cannot be kept in a ferment of agitation over every small legislative measure that is introduced. Moreover, they are keenly alive to the fact that certain measures affect only certain classes, and that as long as those classes which are not immediately affected remain apathetic, the few that suffer may safely be treated with contumely. But it is not only into small or "sectional" measures that the Lords are able to introduce amendments with impunity. In measures of the greatest magnitude they are always able to secure some important modifications of principle. If we were to submit Bill after Bill to close scrutiny, we should find that they have all the same tale to tell. It is, that measure after measure, submitted by Liberal Administrations to the House of Lords, is ever relentlessly attenuated. That Liberal Bills which they care not to reject openly, they mutilate by "amendment" as far as they dare. Conservative measures are safe from attack. A Conservative Administration may make off with a flock of sheep, while a Liberal Administration may not look over the wall. Such is the working of the Unjust Veto.

And all this unending mischief is the work of a body which Mr. Bryce—speaking with ripe knowledge after long and extensive study of Constitutional History—described as "a superannuated relic from the feudal constitution of the Middle Ages." (17th January, 1907, at Aberdeen.)



CHAPTER III.

THE HOUSE OF LORDS AND THE UNJUST VETO.

48. The Increasing Divergence of Political Opinion between the Two Houses.

Before the great Reform Bill was passed in 1832, the differences which arose from time to time between the House of Lords and the House of Commons were comparatively unimportant (see par. 2), for the House of Commons, in those now far-off days, was in a large degree the creature of the House of Lords. As Mr. Gladstone put it, in a speech at Edinburgh, 27th September, 1893, "Although there was contrariety between the House of Lords and House of Commons before the Reform Bill of 1832, there never once was conflict. When the Reform Bill became law, and for the first time that great principle was established, that no man must sit in the House of Commons except by the voice of the Constituency—then it was plain that this contrariety of the two Houses must develop, must sharpen into more pronounced differences and conflicts between the Houses. From that time on, the legislation of the House of Commons—I am speaking of first-class measures—has been a perpetual challenge to the House of Lords." The change in the position of the two Houses wrought by the pass-

ing of the Reform Bill of 1832, which Mr. Gladstone in the same speech said "amounted to a peaceful Revolution," has become accentuated by the passage of time, and is now greater than ever, for never has a House of Commons been returned the vast majority of whose members are so wholly out of tune with the political views of the overwhelming body of political opinion in the House of Lords. Speaking of the House of Lords, Mr. Bright said: "The fact is that privilege everywhere tends to beget ignorance, and arrogance, and selfishness. In the House of Commons, coming from the people, there is always a growing sense that liberty and justice are necessary for a free people." (Birmingham, 5th August, 1884.)

When the People won the great battle of the Reform Bill in 1832, and the first reformed Parliament was returned early in 1833, the number of Tories returned to it was 248 in a House of 658 members. While in the House of Lords, which then had about 400 Members, the Tory majority was not more than 45. At the present time (1907) the Conservative members in the Commons number 158 in a House of 670 Members; while in the House of Lords, which has grown to 600 Members, not more than 45 are avowed supporters of Liberal measures. These figures show us how great has grown the gulf between the two Houses, and how wide and deep is the chasm between the democratic views of the Commons and the reactionary principles of the overwhelming majority in the Lords.

49. A Short Way with New Measures.

The conduct of the House of Lords towards Liberal Legislation is remarkably uniform. If the Lords dare to do so, they reject a Bill right away, as they have recently done in the case of the Plural Voters Bill. If they think simple rejection dangerous, they pass the second reading, and then proceed to reconstruct the Bill on their own lines, and return it to the House of Commons in a form hardly recognisable, as they have recently done in the case of the Education Bill. Willing to irritate, and annoy, and obstruct, but afraid perhaps to exercise their veto—which, only being called into existence when the Liberals are in office, is an unjust veto—the Lords resort to the mutilation of Bills. Mutilation in committee is often quite as efficacious in delaying the progress of a measure as attacks upon it in an earlier stage. In the last alternative, however, the House of Lords may have to accept a measure much in the form in which it originally came before them. Fortunately this does occasionally happen, but how humiliating for the noble Lords! The very men who have but shortly before condemned or mutilated, shelved or rejected, a measure, suddenly affect to be convinced of its usefulness and pass it. They cannot plead that their opinions have become modified by contact with their constituencies. No, they are the same men, and remain the same, year after year—they merely perform a counter-march and pocket their dignity.

50. The Plea of "No Mandate" from the People.

Lord Salisbury's favourite formula was that the House of Commons had "received *no mandate* from the people," therefore the Lords were to throw themselves into the breach. One might suppose that if members of Parliament were legislating in a spirit contrary to the wishes of their constituents, they would be very quickly made aware of the fact. But suppose that such were not to be the case, and that the House of Lords is needed to save us from an impetuous House of Commons, do we find that the House of Lords is ready to withdraw opposition and to acquiesce in measures sent up to them, which *have* been canvassed at the polls, and *have* received the general assent of the electors? Take, for example, the Jewish Disabilities Bill. Twelve times this measure came before them, from *different* Parliaments and from *different* administrations. Did the Lords recognise any "*mandate* from the people?" No. They felt that they could reject the Bill time after time with impunity, and they did not hesitate to do so. In vain did it knock at the door of their Chamber for admission to the Statute Book. As to the term "mandate," Mr. Herbert Paul, M.P., has remarked: "I have never believed in the doctrine of the *mandate*. Even the word is un-English, and the theory is the invention of the French Jacobins who wished to make their deputies into mere voting machines. Such an object, if it could be carried in this country, would be subversion of the Constitution."

51. The Plea of "Hasty and Ill-considered" Legislation.

One of the favourite arguments advanced in support of the existing Upper Chamber is that the House of Lords preserves us from precipitate and hasty legislation. Mr. Balfour, at Manchester on October 22nd, 1906, said: "The power of the House of Lords is not to prevent the people of this country having the laws they want, but to see that the laws they have are really endorsed by the commonsense of the community at large." But the Education Act of 1902 and the Licensing (Brewers) Act of 1904 were certainly not endorsed by the "commonsense of the community at large," nor did the Lords attempt, when these Bills came before them, to revise or modify these Bills in the interest of "the community at large."

Now, this plea that the Lords preserve us from precipitate and hasty Legislation is really an argument for government by *two* Chambers, and cannot be regarded as an argument in favour of the House of Lords, unless those who make use of it are prepared to go a step further and argue that, granted a second Chamber, the House of Lords is a satisfactory form of second Chamber. For it is perfectly logical to entirely disapprove of the existing House of Lords while desiring to see maintained a second Chamber for deliberative and revising purposes. But treating this argument for the moment as an argument in favour of the House of Lords, does that body, as a fact, preserve us from hasty and precipitate legislation? They mutilate many

scores of Bills, certainly, but do they improve them? Do they supply omissions, or render Bills simpler and clearer and easier to work? A few omissions are supplied during the passage of Bills through the House of Lords, *for the most part at the suggestion of those who were interested in them in the other Chamber*, and to whom it did not occur to make them before the Bills had left the Commons. But this is not the usual run of the Lords' amendments. They are, for the most part, of a totally different character, consisting of amendments embodying principles *entirely antagonistic* to those on which the Bills which they seek to amend were originally drafted, and instead of rendering the measures into which they are introduced simpler, they only tend to confuse them and make them more difficult to interpret. That the House of Lords delays Bills is only too true, unfortunately, but does the House of Lords thereby convince the People's Chamber of precipitancy? "Is not the revising wisdom of a Senate a salutary check upon the precipitation of a popular assembly?" asks Lord Beaconsfield in "Coningsby," and the answer comes, "Why should a popular Assembly, elected by the flower of the nation, be precipitate? If precipitate, what Senate could stay an Assembly so chosen?" ("Coningsby," book vii., chap. iv.) Looking over the past eighty years, can we point to a single measure the House of Commons sought to pass precipitately, which the sober, grave, irresponsible legislators of the other Chamber rejected? The House of Commons has hastily passed some

foolish measures, it is true. The Ecclesiastical Titles Bill (1850), to prevent the Pope from officially designating Roman Catholic bishops by names taken from English towns, a Bill which, falling dead as soon as enacted, was repealed in 1871; but did the House of Lords endeavour to restrain the House of Commons from rashly entering upon a foolish course? So far was this from the case that the Lords evinced even greater readiness to pass the Bill than the Commons, passing it in as many days as the Commons had taken weeks about it, and supporting it by 265 votes to 38. And these are the sober, grave, irresponsible legislators who are to preserve us from rushing headlong to our own destruction.

52. The Claim to "Compel a Dissolution."

When the House of Lords rejects a Bill on the plea that there is "no mandate" for it, we are always told by the Tory Press and Tory politicians that if we do not accept the rebuff, we can dissolve Parliament, and put the elected and the electors to the trouble and turmoil of another election. The monstrous claim that the Lords are entitled to reject Bills and force a Dissolution has been effectively dealt with by the Duke of Devonshire (when Marquis of Hartington) in a speech on the County Franchise Bill at Chatsworth, 21st August, 1884.

"We are told that the House of Lords claim the power to reject this Bill or *to compel a dissolution*. We do not admit that claim. It is a claim without precedent. It is strange that from the party which calls itself Constitutional that claims should come

for *a precedent unknown to our constitutional history*. It is a dangerous claim for the House of Lords to make. A contest between the House of Lords and the House of Commons is not an equal contest. The House of Commons, strong in its representative capacity, strong in the support of the great masses of the people, and strong in the undivided and indisputable control it possesses over the resources of the country [*i.e.* its exclusive right over money Bills], is more than a match for its opponents in the contest." This "unknown" claim to force a Dissolution is a claim only made when a Liberal Administration is in office. And a claim which is only put forward as a weapon against one party in the State must be founded in injustice. It is the direct product of the unjust Veto.

53. The Independent Chamber or "Umpire Theory" Exposed.

The great and increasing weakness of the House of Lords is that they have become more and more a committee of the Carlton Club. "The nucleus of the Tory Party in the House of Lords," said Lord Randolph Churchill; the House of Lords is "a High Tory committee," said Mr. (now Lord) Goschen; it is "a wing of the Carlton Club," said Sir Henry (now Lord) James of Hereford; and Lord Dunraven not long ago wrote, "The most obvious evil in the House of Lords is that questions of vast importance are frequently decided by men who take little interest in public affairs, who rarely attend the House, who would never dream of taking

a seat in Parliament, but who exercise the privilege of their birthright *in obedience to the command of a political chief.*" (*Nineteenth Century*, February 1894.) If, as all these men say, the alliance between the House of Lords and the official Conservative Party is intimate and complete, how can the theory of the House of Lords acting as "umpire" hold good, for an "umpire" is an independent, just, unbiassed judge.

Take, for example, the Trades Disputes Bill, which at "the eleventh hour," in the House of Commons, Mr. Balfour decided to support. The *Outlook*, 17th November, 1906, expressed "admiration of Mr. Balfour's action" in the following words. "The Opposition was deeply involved. A false course had been taken. At the eleventh hour Mr. Balfour had the courage to reverse it, and to reverse it *once for all.* No division was taken on the third reading, and we assume that the Bill and *the vital interests of the Unionist Party* are safe together." The word of command was given to the Hereditary Chamber, and after making many wry faces, the Lords swallowed whole the Trades Disputes Bill, Lord Lansdowne and Lord Halsbury denouncing it as "disastrous," "calamitous," "unjust," and "tyrannical." (See also par. 73.) This open exhibition of the influences which control the House of Lords brought many protests from the Unionists themselves. The *Spectator* said (22nd December, 1906): "One result of Mr. Balfour's action is undoubtedly to place the House of Lords at a considerable disadvantage in the Con-

stitutional controversy which must now arise between them and the House of Commons. The fact that Mr. Balfour was able to pull the strings which work the House of Lords by making them first swallow, without protest, so dangerous a measure as the Trades Disputes Bill, and then virtually reject the Education Bill, has made it almost impossible to argue that the House of Lords is an independent revising Chamber."

As the *Westminster Gazette* observed, speaking of the "Umpire Theory": "There is something peculiarly exasperating in the notion that it is Mr. Balfour, overwhelmed as he was at the polls, both personally and politically, who should still be able to veto legislation asked for by the House of Commons by overwhelming majorities. It makes, at all events, perfect nonsense of the 'Umpire' theory. Here we have had the Tory Eleven, captained by Mr. Balfour, completely bowled out, and now, when the Liberal team are at the wicket, Mr. Birrell makes a hit which, to the naked eye, looks like a boundary hit, especially as all the fieldsmen fail to stop it. But no. 'How's that?' says the bowler, Mr. Balfour. 'Out,' apparently says the Umpire, dressed up to look like a Lord. 'Apparently,' we say, because, oddly enough, the voice is unmistakably Mr. Balfour's." "We are not dealing with an Impartial Second Chamber, which approaches the work of revision in an independent spirit, but with a partizan Assembly which is *openly directed* by the Leader of the Opposition in the Lower House." (*The Same*, 19th December, 1906.)

54. The House of Lords subservient to the Tory Party.

If we look back a few years we find the same subservience of the Lords to the bidding of the chiefs of the Tory Party. When the noble Lords repealed the Corn Laws at the bidding of the Duke of Wellington, less than three years after they solemnly, and all but unanimously, recorded it as their opinion that Free Trade was a dangerous heresy; when they passed a Reform (Franchise) Bill (1867) at the bidding of Lord Derby, without even dividing on its second reading—a Bill which the great majority of them regarded as a "leap in the dark;" when at the bidding of Lord Salisbury they cut to ribbons the Irish Land Act, which had occupied the close attention of the House of Commons for a whole session, and but four days later, obedient to the same authority, consented to pass the rehabilitated—but to them still utterly obnoxious—measure, can it be seriously entertained that the House of Lords, apart from their leader for the time being, has any political opinions? Judging by experience, one is led to think not.

Sir William Harcourt referred to this matter in a speech on 8th May, 1895. "It is said—'Oh, but you have brought forward measures which you know can never pass.' What measures, and why will they never pass? Are they going to pass the House of Commons? That is not what they mean; they mean that they have got the House of Lords in their pocket." Mr. Birrell, speaking of the loss of the Education Bill (1906), at Bristol, on 18th January,

1907, and the conduct of the House of Lords in regard to it, said: "The Lords look at these things simply from the point of view of Tory politicians. They said to themselves, 'Our friends in the House of Commons are very badly off. There are very few of them. The odds are that they will never again be quite so weak in numbers as they are at present. If, therefore, we can only stave off this Education question, other questions will arise. A General Election will have to come, and though the probability is that we shall be beaten again, we shall not be beaten quite so badly; and so we may hope in another House of Commons—particularly if we have not angered the Labour Party—to extort better terms for the Voluntary schools.'"

55. The Veto of Lords at the Call of the Conservative Party.

Lord Rosebery, speaking in the House of Lords as far back as 1888 (March 19th), called particular attention to the striking fact that the veto of the Lords was not the veto of an Independent Assembly, but the veto of the Tory Party. And he made use of these remarkable words: "The veto of this House is the veto of the noble Marquis [Salisbury] opposite; it is the veto of the Leader of the Conservative Party. And so it has been for the last sixty years. This house, which *strains at a Liberal gnat, will readily swallow a Conservative camel.*" It is this everlasting, one-sided action of the Lords' veto that makes it so clearly wrong and so palpably unjust. It is kept as "a rod in pickle,"

only for use against a Liberal Administration. When a Conservative Administration is in power, the weapon is laid upon the shelf.

56. The Veto, a "Rod in Pickle" for Liberals.

So long as a Conservative Government is in power, the House of Lords as a political force practically ceases to exist. Lord Newton, a Conservative peer, in the *National Review* (December, 1906), writes: "Not only was no attempt whatever made, during the recent ten years of Unionist Administrations, to introduce any kind of reform of the House of Lords, but it was steadily and consistently ignored." Further on Lord Newton writes: "It must be honestly admitted that the treatment of the Peers during the above period went far to justify the Radical contention that the Lords are content to efface themselves during a Conservative *régime*." Then, after speaking of this "contemptuous treatment" of the Lords by the Tory Party, he says, the House of Lords might, however, conceivably stand higher in public estimation "if the Unionist majority in the Lords had *shown itself less docile*, and if, instead of constantly "taking it lying down," from excessive loyalty [*i.e.* to the Tory Party], a single Government Bill had been thrown out."

Not a single Conservative Government measure is ever rejected by the House of Lords. The Unionist majority of 10 to 1 in that Assembly is ever the humble servant of the Tory Administration of the day; but the moment a Liberal Administration comes into office, the House of Lords wakes up and

destroys Bill after Bill. Lord Salisbury, who was nothing if not cynically honest, said, in 1892, when the Dissolution was imminent, which resulted in the return of Mr. Gladstone to office: "You may rely, if we should be defeated at the Election, upon *the working of the other parts of the Constitution*." That was as much as to say, "upon the House of Lords rejecting the measures of a Liberal Administration." This vicious circle of perpetual power for the Conservative Party, and the injustice of it, has been referred to by Mr. Bryce in the following words: "What our opponents really desire is the *permanent ascendancy* of the Tory Party. Get it by the House of Commons, if possible; but if not, then get it through the Lords. So soon as the Liberals prevail in the Commons, let the Lords be roused, like a slumbering volcano, to activity, and destroy whatever a Liberal majority may pass. This, if you will excuse a familiar expression, is to play the game of 'Heads I win; tails you lose'; and we are tired of playing at that game, and will play at it no longer." (17th December, 1894, at Aberdeen.)

57. The Lords: A Packed Court of Appeal.

The point we have dwelt upon in the preceding paragraphs, namely, the one-sided and unvaryingly Tory action of the House of Lords, was well brought out in a speech at Edinburgh, 17th March, 1894, by Lord Rosebery, who said: "What I complain of in the House of Lords is this, that during the tenure of one Government it is a Second *Chamber*

of an inexorable kind; but while another Government is in, it is no Second Chamber at all. In one case it acts as a court of appeal, and *a packed court of appeal* against the Liberal Party; while in the other case, the case of a Conservative Government, it acts not as a Second Chamber at all. In the one case we have *two chambers* under a Liberal Government, while under a Conservative Government we have a *single chamber*. Therefore I say we are face to face with a great danger, a great peril to the State."

58. The House of Landlords: Can the Cats Legislate for the Mice?

Indeed, in all questions relating to the land, and interests connected with land, it is impossible to regard the hereditary House as anything else than a board of landlords—a gigantic land-league. Fourteen million acres, with a rent-roll of £12,000,000, are held by 402 Peers, giving to each of them an average holding of 35,000 acres, with an average income from land of £30,000. The Bishops, moreover, derive their stipends from land—the landed possessions of the Church; so that, leaving out a few lawyers and others, the Lords are all landowners. Naturally they have the opinions and the faults of one class, and on all matters relating to land—and there can be very few matters which are not, indirectly at least, influenced by considerations touching the tenure of land—they are not an impartial, but, on the contrary, a strongly biassed body of men; yet, in spite of the clear and overwhelm-

ingly strong class-interest of the House of Lords, Lord Beaconsfield committed himself to the amazing opinion that, whereas the House of Commons only represented its three millions of electors [they now represent 6,000,000 electors], the House of Lords represented "the 28,000,000 who had no votes." The monstrosity of this proposition becomes apparent immediately we put it to the test. Was it out of consideration for the thousands of agricultural labourers who had no votes that the Lords, in 1884, rejected the County Franchise Bill; or is it not more natural to explain the motives which animated them by asking a question first propounded by Mr. Bright in 1852, "Can the cats legislate well or judiciously for the mice?"

The fact is, the House of Lords is the very *citadel of class government*, and Lord Beaconsfield sounded the note of warning when he declared at Aylesbury (1880) that the legislation of the future would be in the direction of weakening the influence of the great landed class in the Constitution—in plain words, that the privileges of a small minority must be swept away, and the development of our national life cease to be thwarted and checked by the relics of feudalism and the survivals of a barbarous antiquity. No wonder that the late Lord Derby, speaking in 1856 upon the question of life peerages, expressed some anxiety lest the true condition of things might come to be perceived. "What we must endeavour," said he, "to impress upon the people of this country is, that the House of Lords is *really* a representative body." It is difficult,

however, to believe that many will be found so simple-minded as to accept Lord Derby's words in the sense which he intended them to be understood. That the House of Lords is a representative body in the sense of being "representative of landlordism," few would deny, but it is difficult to see of what other interest, save, perchance, the Army, this Chamber can be regarded as "really representative," and certainly in neither of these restricted senses did Lord Derby make use of the words above quoted.

59. The Lords not Men of Affairs.

But this leads us to a further inquiry: Is the training of the individual members of that House such as to *enable* them to form fair opinions, and come to just conclusions, upon the great bulk of the matters with which they are expected to deal? or, putting it even lower, is their bringing up such as to enable them to form *any sort* of opinion upon the matters upon which they are called upon to legislate?

Who are these heaven-sent legislators?—these "accidents of an accident," to use the expression of Lord Thurlow. Are they likely from their birth or position to have had opportunities for obtaining any real knowledge of the questions and difficulties which underlie the work-a-day life of the world? What can a few country gentlemen, many of whom hardly know how to manage their own estates, know of the regulation of the internal affairs of States and foreign commerce? "Is any educated being," asked Mr. Walter Bagehot, "less likely to

understand 'business,' or worse placed for knowing 'business,' than a young lord?" Yet they are continually being called upon to exercise their votes upon questions which are matters of "business" from first to last. And they do not hesitate on these occasions to cut to pieces Bills concerning the regulation of mines, the liabilities of employers of labour, merchant shipping, the legal position of the property of women, and endless other matters, about which nine-tenths of them must, from their training and position, be quite unfit to form any opinion whatever.

If we ask ourselves what are the two main occupations in life to which Peers, before they succeed to their Titles, devote themselves, we find that they are Soldiering and the Business of Amusement. With the exception of a mere sprinkling, who go into Politics and Diplomacy, these are their two occupations. We are, therefore, led naturally to ask, Is a military training one well fitted to develop wise, thoughtful, and capable legislators? Let us see what the training of a military man is. He learns to regard obedience and duty as the very key-stones of his profession. He becomes wholly unaccustomed to opposition, and should he perchance meet with it, it first surprises and then irritates and amazes him, for he has been taught to regard all opposition as mutiny. The code of the barrack-room knows no opposition. Indeed, were a General to rule his troops in a spirit of compromise he would soon destroy his army; he, therefore, naturally becomes accustomed to a code of honour

the very opposite of that which is the very essence of politics. Instead of fitting men for political life, such a training rather positively unfits them for legislative occupations. And what is the young Peer doing who is not soldiering? He is amusing himself. Yet these are the persons entrusted with the right to Veto all Liberal legislation.

60. Veneration for the House of Lords.

One of the stock pleas for the House of Lords is, that we ought to have a feeling of veneration for this Assembly. We cannot do better than listen to what Mr. John Morley has said as to "venerating the House of Lords" (1885).

"Will anyone tell me what there is to venerate in the House of Lords? Will anyone tell me when, in the great battle of freedom, they have been on the side of freedom and justice? Will they tell me when they have not been against it? We need not use violent and unjust language. Be sure of this, the most passionate and effective damning of that assembly falls far short of the coldest and most accurate report of their legislative acts of the past 50 years. Who will talk of the ripe wisdom of an assembly which resists without courage, and obstructs without straightforwardness, and which asserts without approval, and gives way without conviction? Why should we talk of the judicial impartiality of an assembly that is obstructing legislation? Let us hear no more of the ripe wisdom and impartiality of an assembly that is never wise and never impartial."

61. Foreign Affairs.

With regard to the conduct of Foreign Affairs, we have every reason to be thankful for two things —first, that the House of Lords is no longer the Council of Advice to the Sovereign; and secondly, that the House of Lords no longer controls the votes of the majority of the members of the House of Commons. The noble Lords are always ready for an aggressive policy. Can any reasonable man doubt that the noble Lords would have taken up arms on behalf of the Secessionist States of America, in the great American Civil War, had they had the power; and who but they passed a vote of censure upon Lord John Russell in 1864, for not defending Denmark against the aggression of Germany and Austria? The House of Lords again gave their most unqualified support to the policy of adventure in Asia inaugurated by Lord Beaconsfield's Government (1874-80), and in March, 1881, when Mr. Gladstone's Government decided to be quit of a sea of trouble, anxiety, and increasing expense in Afghanistan, and withdraw from Candahar, the hereditary branch of the Legislature condemned the wise conduct of the Liberal Ministry by a majority of 89. It may be that the fact that more than two hundred of the noble Lords are connected with the military and naval services accounts, in some measure, for their love of martial glory. Nevertheless, it would be well for them did they sometimes recollect—in spite of their uniforms—what was said by the Duke of Wellington many years ago, that "there is no higher or more imperative duty in the

case of such an Empire as ours, than to resist the vain desire for mere military glory."

62. The Bishops.

The record of the Bishops in the House of Lords is so deplorable, that it seems almost a waste of words to say anything about it. Their actions can have but few defenders even amongst members of the Established Church. In 1807 a Bill was before the Lords to enable Magistrates to provide rate-supported Elementary schools wherever they were wanted. The Bishops were amongst those who rejected the Bill, the Archbishop of Canterbury (Manners Sutton) saying the Bill proposed "an innovation which would shake the foundations of our religion." When the question of the Slave Trade was before Parliament, Lord Eldon excused himself for supporting slavery on the ground that the Bishops were in favour of it. When Sir Samuel Romilly was endeavouring to mitigate the barbarity of our criminal law, the Bishops were always against him. Early in the century there were two hundred and twenty-three offences punishable with death. "The forger was put to death; the utterer of a bad note was put to death; the purloiner of forty shillings and sixpence was put to death; the holder of a horse who made off with it was put to death; the coiner of a bad shilling was put to death; the sounders of three-fourths of the notes in the whole gamut of crime were put to death. Not that it did the least good in the way of prevention—it might almost have been worth remarking that the fact was exactly the

reverse—but it cleared off, as to this world, the trouble of each particular case, and left nothing else connected with it to be looked after."—(Dickens, "The Tale of Two Cities," book ii. chap. i.) The gaol was only the portal to the gallows. Such were the crimes that were being enacted in the name of Justice, when Sir Samuel Romilly, seeking to amend the law, conducted safely through the House of Commons a Bill to repeal the Act which made "shoplifting" to the amount of 5s. and upwards, *punishable with death*. "I trust," said Lord Ellenborough, when the Bill came before the House of Lords, 1810, "that your Lordships will pause before you assent to a measure pregnant with danger to the security of property. My Lords, if we suffer this Bill to pass we shall not know whether we are upon our heads or our feet." Lord Wynford declared that "if the law were repealed the people of England would no longer sleep in safety in their beds." The Bishops evidently thought the same, and threw their whole weight into the scale with cruelty and barbarism. On a subsequent occasion, when this Bill was once more before the House of Lords, the Bishops earned the entire discredit of its rejection, for by the votes of the Lay Peers taken alone, the Bill would have passed into law.

Well might Sidney Smith write of these reverend and venerable prelates of the Church: "It is a melancholy thing to see men clothed in soft raiment, lodged in a public palace, endowed with a rich portion of other men's industry, using their influence to deepen the ignorance and inflame the fury of

their fellow creatures." Again, he says of them, "when it is of incalculable importance to turn people to a better way of thinking—the greatest impediments to all amelioration are too often to be found amongst those to whose counsels, at such periods, the country ought to look for wisdom and peace."—("Peter Plimley.")

Twenty Bishops voted (1833) against the Bill to repeal the disabilities of the Jews. *Twenty-two* Bishops voted (1834) against the admission of Dissenters to the Universities. *Twenty-four* Bishops voted (1858) against the Abolition of Church Rates. *Twenty-two* Bishops voted (1893) against the Home Rule Bill. *Fifteen* Bishops voted (1894) in favour of compelling meetings as to allotments, candidates for Parish Councils, etc., to be held in the Village Inn (*i.e.* the Public House) instead of in the Village Schoolroom, as the House of Commons desired, and eventually succeeded in carrying. Fifteen Bishops attended in order to vote for these meetings being held in a "Public House," yet *only two* Bishops were present on 18th June, 1903, to vote for the second reading of Lord Davey's Betting Bill, which was rejected by the Lords by a majority of nine! *Nine* Bishops voted (1906) in the final Division which caused the loss of the Education Bill. "The House of Lords," said the Bishop of London (Ingram), "is doing God's work." The Bishops being presumably the flower of the English clergy, we might naturally expect them to have far-seeing and enlightened minds; but so far from this being so, they have continuously ranged themselves on the

side of Authority as against Liberty, on the side of so-called Aristocracy as against Democracy, and on the side of the Past as against the Future. They have continually voted for what is politically bad and for much that is morally indefensible.

63. The Noble "Six Hundred."

For the exact composition of the House of Lords reference should be made to Appendix C. Of the 600 Peers who are entitled to sit in the House of Lords only one-tenth (60) have Peerages conferred before the year 1700, and of the remainder, 350 of these Peerages were conferred between the years 1800 and 1900. A man becomes enormously rich, or wins a battle, or executes a treaty, or is a prominent lawyer, and the country not only gives him rank, but, says the Nation, "your merits are so great that your children shall be allowed to reign over us in a manner. It does not in the least matter that your eldest son be a fool; we think your services so remarkable, that he shall have the reversion of your honours when death vacates your noble shoes. It is our wish that there should be a race set apart in this happy country who shall hold the first rank, have the first prizes and chances in all government jobs and patronages. We cannot make all your dear children Peers, that would make Peerage common and crowd the House of Lords uncomfortably; but the young ones shall have everything a government can give, they shall get the pick of all the places." So wrote Thackeray. And these are the sober, grave, irresponsible persons to whom *we entrust* a supreme

veto in the Legislature. "We entrust"—for let us bear in mind the saying of Thomas Hobbes of Malmesbury—"The Legislator is not he by whose authority the Laws were first made, but by whose authority *they continue to be Laws*."

64. The Blighting Veto.

The up-bringing of the heirs to Peerages, that is, of the vast majority of the House of Lords, is such, that we cannot be surprised at their delegating their authority now to the Duke of Wellington, now to Lord Derby, now to Lord Salisbury, and now to Lord Lansdowne, subject always to the one condition, that their votes shall be used in support of their Order and their Privileges as against the Democracy. The result of this delegation of their authority by the Peers is to place the leader of the majority in the Lords in possession of a power of Veto similar to that enjoyed by the President of the United States—a power *nominally enjoyed but now never exercised by the Sovereign* in this country. It matters not what Administration the great majority of the voters in the various constituencies may return to office, the Leader of the Majority in the Lords can absolutely Veto all minor ministerial measures, and make such terms as seem fit to him, as to the conditions on which their greater measures shall become law. The position in which Lord Lansdowne (acting in concert with Mr. Balfour) is placed by the majority of Peers who have delegated their authority to him, is one in which he affects *to rule the country while out*

of office. The injustice of it was well pointed out by the *Spectator*, writing shortly after the fall of Lord Beaconsfield's Government (September, 1880): "In the spring the nation most deliberately dismissed Lord Beaconsfield from power. Nobody questioned that. As regards the Executive its voice is obeyed; as regards the Legislature it is almost inoperative, in that Lord Beaconsfield remains *above* her Majesty's Government. *He has a complete Veto on all legislation.* He says that this Bill is to be thrown out, that emasculated, and another rendered meaningless, and it is done. He dislikes the Compensation for Disturbance Bill, and it is dead. He says he will not oppose the Hares and Rabbits Bill, and it is safe. He is the Jove of the situation. The constituencies and the nation are nothing before the man whom they have just formally condemned." This power of the Lords, delegated now to Lord Salisbury, now to Lord Lansdowne, practically places Liberal Administrations in the position of a weak Government, which means that, unable to carry good measures, they have to be content with bad ones—the greatest of all possible evils for the country whose affairs they are conducting. When, on the other hand, the Tories are in power, they are supreme. The Liberal Opposition may criticise their conduct of affairs, but it can do no more. It possesses no power other than that of appeal to the judgment of the public, by which it can interfere with or influence the Tory policy. If the Government falls into discredit, it must be owing to the inherent weakness of the Conservative leaders, and not to

the strength of their opponents' position. Unfortunately, owing to the vast permanent majority which the Tories hold in the House of Lords, and the Dictatorship with which that permanent majority arms the Opposition, the Liberal Party when in office are, by the action of their irresponsible opponents, continually paralysed; in short, though returned to office to conduct the business of the country, and though responsible for the welfare of the State during their tenure of office, they find themselves *in office only, but to a large degree not in power*. It behoves, then, every member of the Liberal Party to ponder over our present constitutional arrangements, and consider with himself whether it is right that these things should continue so.

65. The Lords' Venom for Ireland.

The Lords have invariably shown the most complete indifference to the opinion of the House of Commons as to all questions touching Irish affairs. Again and again, when the House of Commons, under Liberal Administrations, has endeavoured by legislation to redress some of the cruel wrongs, and heal some of the deep wounds inflicted on Ireland in the past, its efforts have been thwarted by the House of Lords. Had the one object of the Upper Chamber been to keep open old sores, and to embitter political feeling between the two countries, it could not have been more entirely successful in its effort. These irresponsible hereditary legislators—who resented so bitterly, because of its transparent

truth, Mr. Bright's description of them at Birmingham (November, 1880) as "*many of them men of great obscurity*"—delayed for seventeen years the Bill to emancipate the Catholics, although Parliament had solemnly promised through the mouth of the Sovereign at the time of the Union that the two countries should be subject to equal laws; they delayed for four years the Irish Tithe Bill, and only passed it when redrafted in accordance with their own views; they delayed the Irish Municipal Corporations Bill for five years, and only passed it on their own terms; they fixed their own limit for the Irish franchise, and maintained it for thirty-three years; they successfully debarred the Irish tenant from the right to keep and sell his own for thirty-six years; for forty-seven years they successfully resisted the Irish Registration Bill; and since 1893 they have withstood the passing of a measure to enable the Irish to legislate as to their own internal affairs.

What did the delay and mutilation of the Irish Tithes Bill and the Irish Municipal Corporations Bill really mean? Unfortunately for both England and Ireland, much more than would appear upon the surface. Never since English rule began in Ireland had there been such an opportunity for reconciliation between the two countries. The Reform Bill had just been carried in England, and by it the political atmosphere had become purified, and the House of Commons reinvigorated. The people of England, conscious of the ill-treatment which Ireland had suffered in the past, were prepared, now that they

themselves had partially recovered their own political power, to treat her with justice and even with generosity. Through their representatives, the English people honestly seized the opportunity offered them for pacifying Ireland. They sent up measure after measure to the House of Lords, conceived in a true spirit of conciliation, only to meet from that assembly with a succession of galling rebuffs. The newly-kindled feelings of good fellowship towards Ireland made no impression upon the House of Lords. Yet the people of Ireland still had hope in the English people and in English justice. But when the mangled measures passed, they lost all faith. The swell of popular feeling and responsive enthusiasm died out. The people of England had striven to hold out the hand of fellowship, but in vain—the barrier of an hereditary Legislature had been too great. When England next tried to evince a generous spirit towards Ireland, the time for it was past. The tide in Irish feeling towards England once turned did not set in again.

66. The Veto for Liberal Measures only.

In the year 1880 the Lords rejected every Irish measure of the slightest importance. It was on the occasion of their gratuitously insulting rejection of the Irish Registration of Voters Bill in that year that Mr. Forster, Chief Secretary for Ireland, made use of the following memorable words:—"If such a course were often taken it would make it very difficult for the two Houses to go on, and the House of Commons might think that some change in the

constitution of the House of Lords was desirable or might be necessary. As to want of time, this was especially a case of *noblesse oblige*. The House ought not to allege the argument of personal inconvenience to prevent Bills sent up from that House at any time of the Session being thoroughly considered. They could not forget—at any rate the country could not forget—these two facts, first, that the Commons were the hardest worked law-makers in the world, and, second, that on the other hand there was no assembly of law-makers with so much power and so little personal labour as the House of Lords. They must also not forget the fact that they (the House of Commons) were the representatives of the people, and that the power which the Lords had was simply owing to the accident of birth." (*Annual Register*, 1880, p. 104.) To use the words of Beaumarchais, they had "taken the trouble to be born." This plea of want of time, upon which Mr. Forster animadverted, is a very favourite excuse when the Lords desire to retard legislation. In 1873 this excuse served to pitchfork a whole batch of Liberal measures into oblivion, Lord Salisbury giving it out sententiously that the Lords would not consent to be regarded as a mere Chamber for "registering the decrees of the Commons," and that Bills which were expected to obtain their assent must be presented in good time to afford their Lordships full opportunity for their careful consideration. When, however, a Conservative Ministry is in office we do not find the Lords maintaining this rule. Take, for instance, the Army Discipline Bill (1879), a code of vast bulk,

which occupied the attention of the Commons for nearly five months (27th February—18th July), and which, from the very questions with which it dealt, might have been expected to have considerably interested the House of Lords, with its 206 members connected with "the Services." Yet how long was that measure in passing the House of Lords? It passed through all its stages (omitting the Sunday) within the space of 49 hours (Saturday, 19th July—Tuesday, 22nd).

67. The House of Lords Sitting—A Sketch.

"'The cure for admiring the House of Lords,' said a cynic, 'is to go and look at it. Verily the most patriotic thing a man could do would be to send into that House the Electors of this country by batches to see the Lords at work. It would not last long after that. Go into that Chamber and see for yourselves how the Lords legislate. You find yourselves in a large deserted chamber. Towards dusk a few ghosts steal slowly in. A sound arises like the moaning of the distant sea. You catch the mutterings as of a human voice, but you can distinguish no uttered word. It comes and goes in fitful gusts, like the chiding of the winter's wind, and, for ought that one can hear, might be the gibbering of lost spirits in hell. You rivet your gaze upon the weird motions of a spectral form, you seem to perceive arms waving, and straining your eyes into the murky gloom you see at last that it is indeed a human being. Soon after the spectres troop out, and you are told that the House of Lords has risen for the day."

This is, however, no fancy sketch. It is only too true, and though it may amuse, it is unfortunately a tragic matter. It is not too much to say that not a day of our lives passes wherein we do not suffer some loss, some deprivation of enjoyment, from the accumulated evil influences of the House of Lords upon our political growth. These mumbling spectres have the power, and they use that power, to interfere with scores of measures of relief needful for the progress of a right-doing and hard-working people.

In the House of Commons *forty* members make a quorum for business. In the House of Lords *three* members make a quorum. And touching upon the small number of Peers who by their votes disturb the course of legislation, reference may here be made to what happened to the Public Houses, Hours of Closing for Scotland, Bill, in 1887. The Conservative Government then in office, in deference to the strongly expressed wishes of the people of Scotland, introduced this Bill, and passed it through the House of Commons. The Earl of Camperdown moved, that in Glasgow and certain other large towns in Scotland the hour of closing might be an hour later than the Bill provided. The Secretary of State for Scotland opposed this extension of time on the ground of "the large amount of support—the almost unanimous support—which the measure had received in the other House from the Scotch members." (*Hansard*, 9th August, 1887.) But the Earl of Camperdown, with the assistance of eighteen other Peers, altered the Bill. Not only did almost the whole of the Scotch members protest, but

a strong protest was made by the citizens of Glasgow. It was all in vain. And when bitter complaint was made that the opinion of *nineteen Peers*, who represented nobody but themselves, had outweighed the opinion of almost all the representatives of Scotland, Lord Bramwell said he preferred the opinion of one Scotch Peer to the opinion of the citizens of Glasgow. (See *Times*, 20th September, 1887.)

68. Are the Lords above Temptation?

One of the arguments made use of in defence of the House of Lords is, that the Peers are not influenced by any of the base inducements which might tempt members of the other House to deviate from the strict path of public duty; that, having no constituencies behind them to put upon them an unworthy and injurious pressure, they hold a position which no Representative of the People can ever enjoy. This, as it stands, is a very pretty and attractive picture of the Hereditary Chamber, and eminently calculated to draw forth feelings of the deepest gratitude towards an assembly which so generously and so beneficently protects us from the effects of the mean and unworthy interests which influence the Representative Chamber. But when we descend from the general to the particular, we find that it cannot be when great and important issues are raised that the House of Lords is to befriend the people, for on such occasions the people of this country may be safely trusted to make a right choice for themselves. No, it is not when the greater affairs of the nation

are at issue, but when the smaller matters of daily life are under discussion, that the blameless character of the Hereditary branch of the Legislature is to save us from the dangers and temptations which beset untitled humanity. Yes, dwelling in the unclouded empyrean, with no constituencies to deflect them from the paths of rectitude, the members of the Upper House are proof against all temptation—for, are they not at *the back of hope?* But is this true? Can any noble Lord be said to be at the back of hope, unless he be a Duke and a Knight of the Garter to boot? For all others, there are honours innumerable. In truth, the Peers are *essentially party men*, whose aim is not only to secure the interests of the small class to which they belong, but also the triumph of the political party with which they are associated. Instead of being a disinterested Court of Appeal, they are themselves litigants. In the United States no senator (but see par. 92) can accept office, and this renders their senators to a certain extent independent of party; but in the House of Lords the leaders of the majority are party men struggling for Office, and when they attain it many of their followers know that they, too, will obtain substantial rewards—be made Privy Councillors, Lord Lieutenants, be given the Ribbon of some Order, or whatever else they may have set their hearts upon.

69. The "PLUTOCRACY" Defence.

One of the arguments in favour of leaving the House of Lords as it is, is that the Order of

Aristocracy is a fitting finish to social life, and that it sets at least a harmless ideal before the vision of all those who are working upwards from lower social surroundings. A friendly critic says, "The Order of Nobility is of great use in what it prevents—*it prevents the rule of wealth*, the religion of gold. There is no country where a poor devil of a millionaire is so ill off as in England. It preserves us, too, from the worship of Office. The big Grocer despises the Exciseman, and, what in many countries would be thought impossible, the Exciseman envies the Grocer. A Clerk in a Public Office abroad is *décoré*, in England he is 'nobody.'" Allowing for a certain amount of colour in this picture of English society life, it is no doubt to a large extent true. But even if we admit, for the sake of argument, that it is *wholly* true, and that it *is* desirable to retain the influence upon social life which the Aristocracy is here pictured as exercising, it by no means follows that in order to preserve this influence it is necessary for us to retain the irresponsible legislative functions of the House of Lords intact. Before we admit that, it is necessary for those who would maintain the Political Power of the Aristocracy, to prove that, if that Political Power is strictly limited, their Social Influence would cease; but that such a result would necessarily follow the severe limitation of their political privileges is in the highest degree improbable. Indeed, it is wholly unlikely, should we continue to create Peers, as is still done in Portugal, where, though admission to the Order of the Aristocracy no longer even opens the Portals

of the Legislature, the social influence of the nobility continues unabated. There is indeed no reason whatever to suppose that we should be destroying a real Aristocracy to make room for a Plutocracy, whose only ideal would be one of wealth and ostentation. It is absurd to suppose that Society would cease with the limitation or even with the abolition of the political privileges of the nobility.

70. Democracy and Bad Manners.

But this argument in favour of the Social Influence of an Aristocracy, put plainly, can only mean this—that the increase of Democracy will cause a deterioration of good manners; that it will destroy the class of leisured beings who, though they neither toil nor spin, are deemed useful for the creation and propagation of the refinements and elegances of life; that the Equality of Democracy will be an Equality of Bad Manners; and that the Arts of Music and Painting and Literature will decay, since they will be directed to please the coarse tastes of the million instead of the cultured intelligence of the few. May it not rather be that the progress of Democracy will merely effect an alteration, giving to us, as the Magician gave to the Princess, a new lamp instead of an old one, new draughts of pleasures in lieu of those now in vogue—that it will intensify and increase existing pleasures without changing their form, either by spreading those refinements over a larger area of our population or by increasing the actual refinements now enjoyed

and practically monopolised by a small coterie which calls itself Society?

The truth is, that whatever of good manners and politeness at present exists owes its origin, not to Aristocracy, but to the progress of Democracy. It is to the gradual pushing away of the edifice of Feudalism by the forces of Democracy that, historically at any rate, the growth of modern manners and refinements is due. The growth of Democracy and of Manners have, in fact, gone hand in hand.

In early times, when the Feudal system was in full force, there was no such thing as Society—as intercourse between equals. The county magnate then lived in isolation in his Castle—a little Potentate surrounded by his retainers and subject tenants. Upon these inferior beings Courtesy would have been thrown away. The Feudal Chieftain appealed to them through a much less complex machinery than that of studied attentions and courteous phrases. The fear of the dungeon, or of the thumb-screw, was the means by which the Squire of the period got what he wanted. With his equals he rarely met, except in battle. And when he did meet them on friendly terms, the etiquette observed was based upon a prescribed ceremonial. There was no spontaneous play of wit or conversation between the Host and his Guest. The Jester had to supply the sorry intellectual food. The Harper, not the hostess, nor the ladies of the party, supplied the music. There was, in fact, no intercourse between equals until the growth of Commerce and Wealth in the towns. Then there appeared for the first time a

class of persons—Merchants, Manufacturers, Professional men, and Artisans—with means more than necessary to supply their daily wants. It is to these classes that we owe the wonderful growth of Literature, Science, Arts, and Manners of modern times—a growth confined to no particular class of the people, but spread in some degree at least over every section of the community; moreover, a growth, not of lofty condescensions shown by superiors to inferiors, but a true growth of Society—the intercourse of equals.

71. The LORDS and the Cabinet.

The monopoly by the Nobility of the good things of the military and other services is a small matter compared with their hold upon the Cabinet itself—the very fulcrum of our modern political life. The only consolation we have in this particular is that things *are better than they were.* The time is now past when—as a hundred years ago—the Cabinet could, with one or two exceptions, be composed of noble Lords. It would no longer be possible for politicians such as Burke and Sheridan to pass through a long Parliamentary career without once having had a seat in the Cabinet, or for such a great figure as Fox to go to his grave without ever having once been Prime Minister. We no longer exclude politicians of the first rank from the Cabinet because they are Commoners, it is true, but we still include amongst that number men who have no right to the name of politicians at all, simply because they happen to possess boundless acres and

great social position—in short, because they are great personages? When Mr. Gladstone, in 1868, invited Mr. John Bright to join his Cabinet, it caused widespread comment, as no Manufacturer had hitherto entered this exclusive circle. Strange as it may seem now, it caused almost more comment than when Sir Henry Campbell-Bannerman invited Mr. John Burns, from the ranks of the Artisans, to join his Cabinet in December, 1905. Conservative Cabinets are still very intimately associated with the Peerage. Mr. Balfour's Cabinet, when he retired from office in December, 1905, consisted of twenty members, of whom, omitting the two Lord Chancellors of England and Ireland, all were closely allied with the Peerage, either as sons or grandsons of Peers, saving only Mr. Akers-Douglas, Mr. Austen Chamberlain, and Mr. Arnold-Forster. Liberal Ministries have been differently constituted, and generally, as now, have more than half of the Cabinet chosen from those who are not, as it were, part and parcel of the Upper House.

72. The Lords and the Army.

What reader of history can be ignorant of the many losses and disasters which from time to time have befallen the English arms, solely traceable to the incompetence and feebleness of the Aristocratic Generals and Officers who have been entrusted with the conduct of military affairs? The Navy has not been subject to this drawback, for ever since the time of the Commonwealth the People of England have realised that the security of the Kingdom

depended upon the efficiency of the Navy, and they have accordingly closely scrutinised any attempt to run the Naval service on other than strictly efficient lines. With the Army it has been otherwise, and when Lord North was sending out troops to subdue the revolted American Colonies, he remarked to a friend that "if the Colonists were half as much afraid of the Generals he was sending against them as he was, the war would soon be brought to a successful conclusion." Only a few years later we were entering upon our struggle with France without even so much as one respectable General. "We have no General," wrote Lord Grenville, the Minister for Foreign Affairs, "but some old woman in a red riband." This everlasting inefficiency of our generals at the commencement of every great war has led to our conflicts being so prolonged, and to their costing so much. We always begin with disastrous reverses, and then gradually weed out the inefficient and replace them by capable officers. But it prolongs wars and greatly increases their cost. The Crimean War opened with a display of every kind of feebleness and ineptitude on the part of those in command, and, to quote the *Times* of that day—"Incompetency, lethargy, aristocratic hauteur, and favour reigned, revelled, and rioted in the camp before Sebastopol." The Transvaal War began, like our other wars, with a general exhibition of military incompetence, and after dragging on for nearly three years at immense cost, was brought to a conclusion rather by the exhaustion of an enemy numerically small, than by the

brilliance of our achievements in the field. Captain Fournier, of the French General Staff, summed up our exploits in the following words :—"The English, in the early stages of the war, were often beaten because they made frontal attacks unsupported by turning movements; later on they failed to achieve decisive results because they made turning movements unsupported by frontal attacks." In the Army in times of peace it is not the cream of the military profession that rises to the top, but another sort of cream, viz., the Aristocracy, or the cream of society; mere carpet knights, thrust into command by reason of rank and family connection, without any regard to their possessing the proper qualifications for the posts which they have to fill.

73. The Lords and Labour Questions.

We have referred (par. 53) to the way in which, at the word of command from Mr. Balfour, the Lords carried the Trade Disputes Bill in the Autumn Session of 1906. That measure was not carried because the Lords approved of it, nor was it carried out of deference to the wishes of the Liberal Administration. It was carried in order to placate the Labour representatives in the House of Commons—a party not numerically large in that chamber, but widely influential in the larger urban constituencies. Both Lord Lansdowne, the Conservative Leader in the Lords, and Lord Halsbury, the Conservative ex-Lord Chancellor, unburdened themselves as to the Bill, asserting that it was a disgraceful measure, threatening every kind of calamity

to the country. Lord Halsbury said that "he believed on his conscience that if Parliament passed the Bill it would strike a serious blow against the spirit of freedom which had hitherto reigned throughout our Laws"; and yet, to win over, if possible, the Labour vote in the constituencies, he acquiesced in passing it. Lord Lansdowne stated why the Lords were not prepared to come into conflict with Labour over this Bill in the following words:—

"He should greatly deprecate an appeal to the people on such a ground as that. They were passing through a period when it was necessary for the House of Lords to move with great caution. Conflicts and controversies might be inevitable. But let their lordships, so far as they were able, be sure that if they were to join issue they did so upon ground which was as favourable as possible to themselves. In this case the ground would be unfavourable to the House, and the juncture was one that, even were their lordships to win the victory, would be fruitless."

In other words, as the *Westminster Gazette* put it, "the Lords may think a Bill to be 'disgraceful,' as Lord Halsbury said, and fraught with calamity to the country, as Lord Lansdowne thinks, but is not to oppose or amend it if by doing either it would risk a controversy 'on a ground unfavourable to themselves.' That is as good as saying that its first object, as a Legislative Assembly, is to look after itself. We did not expect to hear the Bill denounced as 'replete with dangerous consequences,'

'unjust,' 'outrageous,' and then accepted on the naked ground that the issue was an unfavourable one for the House of Lords. That really bars the claim of the House to be a Revising Chamber and reduces it to a Party Convention accepting the political orders of the Conservative Leaders in the House of Commons."

74. The IRRESPONSIBLE PEERS.

One of the arguments advanced on behalf of the House of Lords is that "so many new Peers are created that the House of Lords is, to a considerable extent, a 'selected,' and not a hereditary body." The answer, and a complete answer, to this argument, is to take the list of Peers voting on any important division, and see how far this allegation is true. In Appendix E is printed the division list of the Peers when they finally rejected the Education Bill (19th December, 1906); and it is clear from this list that, including all the Bishops, the "selected," or "new," Peers do not number one in four of those who rejected the Education Bill. But if we inquire in what respect the new-comers into the House of Lords (apart from the Bishops) differ from those who, by accident of birth, already sit there, the only possibly answer is—in no respect. The strongest claim that a man can set up to a Peerage is that he or his father has been the accumulator of great estates. And the very qualification which admits new-comers ensures their being entirely in sympathy with those amongst whom they will have in future to sit, and in conjunction with whom they will be called upon to legislate.

Members of the House of Commons are bound to consider the opinions of their constituents—that is, if they desire to continue to represent them. If a member of the House of Commons is prepared to fly in the face of his constituents and defy the local opinion of his constituency, then his legislative power is limited to the term of the existing Parliament, and after the next dissolution the House of Commons knows him no more. So that every member of the House of Commons is strictly responsible to his constituents; and if he refuses to be bound by this principle, his constituents at the first opportunity discard him. But the Peers are responsible to no one, for they represent no one save themselves. Yet this "irresponsibility" of the House of Lords always finds some defender.

When the Upper Chamber was subjected to sharp criticism some years ago, Sir Robert Peel, in defence of the position of the noble Lords, urged that, although "they were not responsible to constituents, as the House of Commons was, they were responsible to God." This theory of responsibility to Heaven, propounded by the Prime Minister, was immediately greeted with the laughter it deserved; and Daniel O'Connell, who rose immediately to reply, said, in indignant terms, "Responsible to God! So, too, is Mehemet Ali responsible to God, who told his people, 'You are all responsible to me, and as to the responsibility, Mahomet be praised, I am responsible to God.' If their lordships are quietly resigned to endure the punishments of the next world for having done all the mischief they can—

hurrah! for their lordships' responsibility to God—hurrah! for the High Priest and Prophet of Mecca—hurrah!"

Speaking in the House of Commons, 6th July, 1899, Mr. (now Lord) Courtney of Penwith said: "Members of the House of Peers, or a large number of them, acted under no sense of responsibility as members of this House did. He ought not to say under *no* sense of responsibility—for, of course, they were all public men—but under no *such* sense of responsibility as members did here. There was no one to whom they had to give an account; there was no penalty to be enforced; no disqualification could be brought to bear on them."

75. The Lords the Cause of Violence.

Sir Robert Peel's argument in favour of the House of Lords, on the ground that, though not responsible to constituents, they are "responsible to Heaven," is a useful admission of the truly irresponsible position of the Upper House. Unfortunately, their "responsibility to Heaven" alone has not abated their opposition to all those measures of progress and reform which Heaven might be expected to approve. Indeed, judging from the history of the past eighty years, the only principle which has guided the House of Lords has been the fear that if resistance were prolonged it might be injurious to the return of Conservative members at the polls. The result is, that at the present time the one influence which alone causes the House of Lords to pause in their opposition to the demands

of the people is a feverish condition of the political atmosphere. The people learnt this in their struggle with the House of Lords over the Reform Bill, and they have not forgotten, nor are they likely to forget, as Lord Macaulay observed, that "the Lords yield to Turbulence what they will not yield to Constitutional Demands." In short, it seems to be now an accepted axiom in English politics that the only way to neutralise the votes of the Lords is by resorting to "Passive resistance," or to Resistance of a more active character. Yet none would be more glad than those who have to resort to such means, could our political machinery be so re-adjusted as to save it in future from the strain and tear which result from one portion of it working in antagonism with another. At the present time, not only is political agitation of a dangerous character directly encouraged by the existence and conduct of the House of Lords, but the political agitation resulting therefrom is in itself urged as a reason against change by those who do not desire it. When agitation is not resorted to, we are told that the country demands no change. When agitation is resorted to, we are told to wait for a more fitting season when the public mind is calm. As nothing is done, should such a time arrive—for the reason already given—it follows that only at times of political excitement can legislative changes be effected at all. For this we have to thank the House of Lords. But as long as the House of Lords forces upon the country this deplorable method of conducting public affairs—a method at once partial in its

operation and dangerous in its effects, even to those in whose favour it is exerted—there is no choice but to resort to it.

76. Lord Avebury's Quaint Arithmetic.

How difficult a matter it is to find solid arguments for the Veto of the Lords is evidenced by the quaint arithmetic of Lord Avebury in reference to the Education Bill. This is what Lord Avebury communicated to a correspondent (*Times*, 27th December, 1906) :—

"The Government have at present 120 seats more than their votes in the country entitle them to, and this, of course, counts 240 on a division. The second reading of the Education Bill was only carried by 206. If, therefore, the House of Commons really and fairly represented the country—that is to say, if the number of seats corresponded to the number of votes given—the Bill would have been thrown out by 34."

We will not stay to discuss the question of Proportional Representation, but we may remark in passing that, as a rule, the want of such a system tells in favour of the Tory party; and so much so that in one Parliament at least in recent times the Liberals were in a minority in the House of Commons, although they had received at the polls a large majority of the votes given by the electors in the United Kingdom. The defect in Lord Avebury's calculation is this, that the crucial stage of the Education Bill was not the second reading in either Lords or Commons. The crucial stage in the

Commons was when the Lords' amendments were rejected, and then the majority against the Lords and in favour of the Bill was 309; so that, even if we accept the hypothetical figures based on a system of Proportional Representation which has never at any time prevailed in this country, the majority in favour of the Bill, after deducting Lord Avebury's 240, would be the substantial majority of 69. But why did not Lord Avebury enunciate this doctrine in 1902, when Mr. Balfour passed his Education Bill and put the Voluntary Schools upon the rates without giving the ratepayers the control? Even the Tories now admit the Nonconformists have substantial grievances under the Act of 1902. How is it, if the Lords are really an independent and revising Chamber acting in the interest of the body politic, they did not exercise these functions in 1902? Instead of doing so, they made the Bill even *more one-sided* than it was when it left the Commons, by inserting the "wear and tear" clause proposed by the Bishop of Manchester (Knox), which saddled the ratepayers with a charge variously estimated at from a quarter of a million to £350,000 a year.

CHAPTER IV.

HOW TO LIMIT THE VETO.

77. What is to be Done with the Lords?

We now come to the all-important question, "What is to be done with the Lords, so as to limit or end this unjust Veto?" There can be but one reply from Liberals to this question. "The power of the House of Lords is limited already as to Money Bills. Let us limit the Veto of the Lords as to all other Bills, once and for all, to a six-months Veto."

The Tories would like us to "Reform the House of Lords," but why should we? To reform the House of Lords would be to strengthen it, and to give it a new lease of power and of life. The House of Lords have had years of power under Conservative Governments, and ample opportunities for reforming themselves; yet they have not only neglected their opportunities, but have absolutely refused to listen to any such proposal. Why, then, should the Liberals be asked to give renewed strength to a Chamber which has consistently flouted all Liberal Legislation? It is not for the Liberal party to "reform" the Lords. "The last thing," said *Mr. Chamberlain* in 1885, "which any Radical would desire, or would dream of doing, is to reform the House of Lords in any way."

78. Too Late for Reform of the House of Lords.

From the summer of 1886 down to the close of 1905 the Conservative Party were continuously in power with the exception of the brief period from August, 1892, to July, 1895, during which the Liberals were in office with a precarious majority in the Commons of not more than 40 votes. During these many years of Tory Government it was open to the House of Lords to settle upon its own reform; but they never took advantage of their opportunities, and, more than that, they declined to reform themselves. In 1887 Lord Rosebery put down a Resolution in the House of Lords "to call attention to the Constitution of this House, and to move that a Committee be appointed to inquire thereon." In his speech on moving the Resolution, Lord Rosebery commented on the immense preponderance of Tory opinion in that Chamber, stating that "this anomaly was daily and hourly increasing, and threatened to become an insuperable gulf. One party in power enjoyed practical omnipotence; the other party was never absolutely in power."

The motion was negatived without a division. Speaking some years afterwards (Devonport, 11th December, 1894), Lord Rosebery said: "Some gentlemen have discovered in the [Liberal] Government an intention to reform the House of Lords. I cannot conceive on what that theory is based. I have twice, as a private individual, tried that work of reform. On each occasion I was ignominiously defeated. . . . I say confidently for every single member of the Cabinet, that no such act of

insanity as our proposing a reform of the House of Lords has ever, for an instant even, occurred to us."

79. The Lords with no Power over Money Bills.

"The Lords have no voice in questions of expenditure, save that of a formal assent" (May's "Parliamentary Procedure," vol. ii., p. 104). This principle has been long established (see Appendix B), but in 1860 the Lords tried to break in upon this principle. It had become usual at that time to deal with the financial proposals of the Government (*i.e.* the Budget) in several Bills, instead of in one. And when the Bill to repeal the paper duties (see par. 24) went to the Lords they rejected it. The House of Commons determined this should not occur again, and it never has. Mr. Gladstone, referring to the matter at Edinburgh, 27th September, 1893, said: "The House of Commons adopted *a remedy beautifully simple*—they determined to combine all their future financial proposals in one Bill, and any assembly that threw out that Bill would stop the supplies and derange the whole service of the country. The consequence is that the House of Lords has been totally and absolutely excluded from all influence whatever upon the finances of the country." Happily, so far as concerns the National Finances, the unjust Veto has no place.

80. The Education Bill as a Money Bill.

The Education Bill (see par. 46) is so closely allied to a Money Bill that there seems to be no sufficient reason why it should not be treated as such, and sent to the House of Lords in a form

in which they are precluded from altering it. The whole Bill hinges on money grants, whether as Fee Grants paid directly by the Government out of the Taxes, or as Rates levied locally upon the Ratepayers. Why, then, not treat it as a Money Bill and incorporate it with the next Budget? It would be difficult for the Lords to raise any objection to such a procedure in any event, for the Bill clearly falls within the category set out in the Resolution of 1678 (see Appendix B). But we have an additional claim, if any such be needed, for so treating this particular Bill, in that this very course was adopted by the ex-Lord Chancellor Halsbury in reference to the "Voluntary Schools Bill" of 1897. When that Bill went up to the House of Lords, Earl Spencer gave notice of an amendment to Clause 1. Before this was moved, Lord Halsbury (then Lord Chancellor) interposed with the objection that no amendments could be moved to the Bill. He cited the Resolution of 1678, and said: "The rule—he called it a rule, for though it was originally a protest and a resolution of the other House, it had been acted on as a rule of Parliamentary Procedure for some three hundred years," and he went on to say: "Upon this Parliament has acted ever since, and in the circumstances he put it to the noble and learned lord opposite whether he agreed with him in the construction to be put upon the words? He had no authority, although Speaker of the House, to decide questions of order. Had he that right he should decide that the amendment standing in the name of Earl Spencer was out of order, but he now only put it to the noble earl and the noble and

learned lord beside him whether it was possible, in the face of the authority he had quoted, to say that the amendment was in order? If it were not in order, then it would be hardly respectful to the House to discuss matters and come to a decision to which their lordships could give no practical effect; because, if the amendment were passed, it would, as a privileged amendment, have to be again struck out of the Bill." (Hansard, 1897.)

Considerable discussion arose upon the point raised by Lord Halsbury, and the Earl of Camperdown raised his protest against "laying down a precedent that the House might have cause to regret at no very distant time."

But the line suggested by Lord Halsbury was followed, and the Bill was returned to the House of Commons *without any amendments*. Sir Henry Fowler, in a letter to the *Times*, 6th April, 1897, pointed the moral. He wrote: "The Liberal Opposition did not expect that in order to make the easy passage of the Bill easier, and to prevent discussion of the details, the House of Lords would have made such an unprecedented and complete acknowledgment of the privileges of the House of Commons. As a Liberal I do not complain of this advance. The Lord Chancellor appeared to be of opinion that because the Bill proposed grants in aid of Voluntary schools, it became what is technically called a 'Money Bill,' and he laid down the doctrine that it was the undoubted and sole right of the House of Commons to attach conditions, limitations, and qualifications to such grants, and 'that such conditions, limitations, and qualifications could only

be altered in the House of Commons.' It is not for Liberals to complain of this unqualified recognition of the sole prerogative of the House of Commons."

So far as the Education Bill is concerned, it can be dealt with as part and parcel of the Budget, in which a clause can be inserted directing that "from and after (say) 1st September next, no further sums of money by way of Fee or other Money grants shall be paid to, and no Local Rates shall be raised for, any Elementary Schools other than those in which the religious teaching is conducted under the Cowper-Temple clause of the Act of 1870, save and except in the case of Jewish or Roman Catholic schools sanctioned by the Board of Education."

81. The Weak Joints in the Harness.

In the words of the Prime Minister, "A way must be found, and a way will be found, by which the will of the People, expressed through their elected Representatives in this House, will be made to prevail" (20th December, 1906). In other words, the will of the people as expressed in the House of Commons must be supreme. "Unless," said Mr. Bright, "English freedom be a fraud and a sham, the English people will know how to deal with a titled and hereditary Chamber, whose arrogance and class-selfishness have long been at war with the highest interests of the Nation" (26th July, 1884, at Manchester). There are more ways than one by which it is open to the House of Commons to bring the unjust veto to an end—that veto which is only, and yet ever, exercised when a

Liberal Administration is in office. When the battle is waged, it must be for the controlling voices in the Ministry to decide as to how and when and where the final assault is to be delivered upon the veto which withers and blights all Liberal legislation. In the ensuing paragraphs we point out some of the weak joints in the harness of the House of Lords.

82. No Lethal Chamber for Money Bills.

We know that all Money Bills are quite safe from interference in the House of Lords. Money Bills, whether they be offspring of a Liberal or of a Conservative Administration, are alike safe in that Chamber. But Money Bills are the only Bills sent to the House of Lords by a Liberal Administration for which that House has no terrors as a lethal chamber. They pass untouchable and untouched (see par. 79). As to other Bills sent to the Lords by a Liberal Administration, no one can ever foretell their fate, other than that it is safe to predict that the more important such measures are, the more likely are they to meet with mutilation or rejection. So far as regards the Education Bill, we can feel assured that the House of Commons can, if it will, treat this as a Money Bill, and incorporate it with the Budget (par. 80). But this Bill is only one of many Bills, as, for example, the Plural Voters Bill (par. 44), which cannot reasonably be treated as in any proper sense ranking under the term of "Money Bill." How then—when we come to the numerous class of Bills which cannot rank as "Money Bills"—can we limit the Veto of the Lords,

83. The Resolution Concerning the Lords of 1894.

The proper step to take, in the first instance, is to proceed by Resolution of the House, as in 1678. Such a course has already once been taken by the House of Commons, in 1894. But it was taken on the initiative of a private member, Mr. Labouchere, and the Ministry of the day were not then prepared —having regard no doubt to the slender majority of barely forty which supported them in the House of Commons—to proceed upon it. As we know, the Lords had either rejected or mutilated many important Bills during the Session of 1893. When the Queen's speech was before the Commons in 1894, Mr. Labouchere moved the following resolution:—

"That the power now enjoyed by persons not elected to Parliament by the possessors of the Parliamentary Franchise to prevent Bills being submitted to her Majesty for her Royal approval shall cease, and we respectively express the hope that if it be necessary your Majesty, with and by the advice of her Majesty's Ministers, use the power vested in her Majesty to secure the passing of this much needed reform." This Resolution was carried by 147 votes to 145. It thereupon became necessary, as the Ministry did not then see their way to act upon the Resolution, to withdraw "the Address to the Queen," and substitute a new one, without this addition, which was done. But there is the Resolution upon the Journals of the Commons; and, as Lord Rosebery remarked at the time, "not all the perfumes of Araby itself will wash it out of the books of the House."

It will be observed that this Resolution does not define exactly what steps should be taken to place a curb upon the Veto of the Lords, but Mr. Labouchere, in his speech in support of the Resolution, made reference to two methods in particular; first, by the creation of additional Peers, and secondly, by summoning only such Lords to take part in Legislation as might be in sympathy with the Bills emanating from the Commons.

84. Overcoming the Veto (firstly) by the Creation of Peers.

The great Reform Bill of 1832 having been carried by consent of the King, William IV, to the creation of a sufficient number of additional Peers to ensure its passage through the House of Lords, this precedent has become firmly embedded in the public mind and memory, and is constantly referred to. The matter is so important that it is desirable to give an exact account of what then occurred: In 1831 the second reading of the Reform Bill was carried (7th July) in the Commons by a majority of 136 (367-231) and rejected (8th October) in the Lords by a majority of 41 (199-158). In 1831 the second reading of the same Reform Bill was carried (17th December) by a majority of 162 (324-162), and in the Lords the second reading was carried (14th April, 1832) by a majority of 9 (184-175), but in committee the Lords carried an amendment "that the question of enfranchisement should precede disfranchisement," and this was carried (7th May, 1832) by a majority of 35 (151-116). This amendment bears a strong

family likeness to that which caused the rejection of the Plural Voting Bill (par. 43). On the carrying of this amendment to the great Reform Bill, the Liberal Administration, of which Earl Grey was Prime Minister, resigned (9th May, 1832). The King (William IV.) sent for the Duke of Wellington and for Sir Robert Peel, but neither of them saw their way to accepting office. The King then sent for Earl Grey, who went accompanied by Lord Brougham (see Molesworth's "History of England," Vol. 3, p. 222). "The King received them with evident ill-humour, and, contrary to his usual practice, kept them standing during the interview. But he at once consented to the creation of as many Peers as the Ministry might think necessary to enable them to carry the Reform Bill through the House of Lords, with the understanding that this power was not to be exercised until every means of avoiding the necessity for its employment had been tried." This having been settled, "The King asked, 'Is there anything more?' 'Sire,' said Lord Brougham, 'I have one further request to make.' 'What,' replied the King, 'have I not conceded enough?' 'Yes,' replied the Chancellor, 'I do not wish to ask any fresh concessions from your Majesty, but simply to request you to put in writing the promise you have made us.'"

"The King was irritated at a demand which seemed to imply a want of confidence in his promise, but he also felt that he could not resist. After a moment's hesitation, he took a small piece of paper, on which he wrote the following words:—

"The King grants permission to Earl Grey and to his Chancellor, Lord Brougham, to create such a number of Peers as will be sufficient to insure the passing of the Reform Bill—first calling Peers' eldest sons. "WILLIAM R.

"Windsor, 17th May, 1832."

Thereupon the opposition of the House of Lords to the Reform Bill ceased. The Bill was accordingly read a third time in that Chamber with a majority of 84 (106-22) on 4th June, 1832, and received the Royal Assent on 7th June. This is the precedent that many refer to, but it is obviously one that can only be made use of once again, and then only for the purpose of finally limiting the unjust Veto which the House of Lords wields. This may be the best way of finally overcoming the perpetual resistance of the House of Lords to democratic legislation. But whatever plan is adopted by the Ministry of the day, they will have to determine what form the Resolution they pass shall take (see par. 85). It is clearly impossible to follow such a precedent as that of the great Reform Bill, merely for the purpose of carrying individual Bills. Such a step is a great straining of the Constitution, and it is impossible to carry on National legislation by efforts of so drastic a character as repeated threats to flood the House of Lords with new Peers.

85. Overcoming the Veto (secondly) by Summoning a Limited Number of Peers to Parliament.

An alternative method of limiting the Veto of the Peers, suggested by Mr. Labouchere when he moved his resolution in 1894, was, that the Privy

Council, in other words, the Government, should issue writs of summons to only a limited number of Peers, taking care that a majority of those summoned should be favourable to the Ministry. This is certainly an admirable suggestion, and deserves every consideration, as it may be the best solution of the whole difficulty; but it is not the easy matter now that it would have been thirty years ago, when nearly half the Peers were, nominally, at any rate, Liberals in politics. If we look at Appendix C, we find that there are 26 Archbishops and Bishops who have apparently received legislative sanction for their writs of summons, and there are 44 Scotch and Irish Peers entitled to writs of summons under the respective Acts of Union. Now, *no* Liberal Scotch Peer, and *no* Liberal Irish Peer, ever gets elected as a Representative Peer to a seat in the House of Lords, for the great majority of the Scotch and Irish Peers being Conservatives, they always elect Conservatives, and Conservatives only, as Representative Peers. Accordingly, we have, what with Bishops and Scotch and Irish Representative Peers, a dead weight of 70 members of the House of Lords to contend with, who may be relied upon, with the exception of an occasional Bishop, to vote against all Liberal legislation. As against these 70 votes, the Liberal Peers, who are all English Peers, cannot be reckoned as more than 45. It seems clear from this that if, say, 30 Conservative Peers receive writs of summons in addition to the 70 Spiritual and Representative Lords, there must be a creation of at least 80 Liberal Peers to ensure a working majority of, say, 25.

If this proposal were to be adopted, it is obvious that when a Conservative Government came into office it would be entitled to issue writs of summons to a majority of Conservative Peers. But no Liberal would object to that, provided that when a Liberal Government was in office the majority in the Peers was the other way. Although this method only requires a comparatively limited creation of new Liberal Peers, still it does require a creation of new Peers. In the case of the Reform Bill, the threat of "creating new Peers" effected its purpose, and none were created, but the summoning of a working majority of Peers, whichever political party was in office, would necessitate the creation of at least 80, possibly 100, Liberal Peers in order to give Liberal Administrations a working majority in that Chamber and put an end to the unjust Veto.

86. Overcoming the Veto (thirdly) by Resolution only.

It seems probable that there is a third way by which the Veto of the House of Lords may be overborne, and that is by Resolution of the House of Commons, without necessitating the creation of any new Peers. The House of Commons might decide to pass a Resolution to the following effect:—

"That from and after the passing of this Resolution, the power of the House of Lords to amend or reject any Bills in charge of Ministers shall be limited as follows: namely, that any Bill, lost owing to amendment or rejection by the House of Lords, and sent a second time to that Chamber after a lapse of six months unaltered (save verbally), shall

become law without further amendment by the House of Lords."

The House of Lords would then, no doubt, refuse to agree to such a Resolution, and then there would have to be conferences of delegates of the two Houses, conferences in which the delegates of the House of Commons, as furnishing supplies, should largely predominate. Lord Rosebery referred to this method in his speech at Glasgow on 14th November, 1894, when speaking of the limitation of the Veto of the Lords. He said: "Or it could be done by the old Parliamentary system of conferences between delegates of the two Houses, in which the delegates of the House of Commons shall predominate, and largely predominate over the delegates of the House of Lords."

87. The Three Methods of Overcoming the Unjust Veto.

We have now taken account of three ways of overcoming the resistance of the Lords to Liberal legislation. The first, commonly known as "creating Peers," means this, that, as a fact, no Peers will be created, for the Lords will give way, as they did in 1832, rather than have a large number of new creations. But to carry through a modification of the Veto upon these lines will need a great effort, and the results must be adequate. That is to say, the terms that the Lords accept under stress of the threat to "create Peers" must be such that they solve the question not for the moment, as in the case of the Reform Bill of 1832, but for the future as well. Accordingly, if this method of belling the

cat be adopted, it would be sufficient if the terms agreed to were such as set out in the last preceding paragraph, under which the Veto of the Lords would be limited to six months.

The second means proposed—namely, the summoning of a limited number of Peers to Parliament—would need no limit of time for the Lords' Veto, for it is obvious that under such a system the Government of the day, whether Liberal or Conservative, would always have a working majority in favour of its general principles of Legislation in the Upper House.

The third method of overcoming the resistance of the Lords—namely, by Resolution—would, as in the case of "creating Peers," require such a Resolution as is proposed in paragraph 86—namely, a limitation of the Veto to "six months."

88. A Six Months' Veto.

Under the first and last of the three methods suggested for dealing with the Lords (see par. 87) it would be necessary to pass a Resolution, taking the form of limiting the Veto of the Lords to a definite period of time. "Six months" seems a reasonable time to suggest, as while, on the one hand, it gives a six-months' pause, if the country needs that time to reflect, it is not so long as to preclude legislation (upon the matter delayed) during the next ensuing session of Parliament. Allowing the time necessary for any given measure to go through both Houses after the lapse of the six months, the effect of the pause would work out at about a year's delay in the passage of any given measure to which the

Lords took exception. A six months Veto, therefore, seems to be a reasonable period of time to fix upon, especially as this is the *usual limit of time*, in the case of almost every public authority in the Kingdom, during which any resolution brought up and negatived cannot again be moved.

Let, then, the Veto of the House of Lords be effective for six months, and for six months only; and if the Bill rejected (owing to the Lords' amendments or rejection of it) be again sent to the Lords, with no variation in its clauses (other than verbal alterations), let it then become law just as a Money Bill does on its presentation to that Chamber. Technically the Lords have the right to reject, though they may not amend, a Money Bill. But in point of fact, they never do reject a Money Bill, so that their technical right to reject it is purely theoretical and unreal.

The "six-months' pause" here suggested would give time for the expression of political opinion in the country, if the constituencies were really adverse to any measure hindered or rejected by the Lords. The extinction of the Lords' Veto in the case of Money Bills is a precedent of the greatest value for other Bills, for the power of the purse is the greatest power of all; and if that has gone from the Lords, why should they not be limited, and strictly limited, in their exercise of their Veto upon other legislation.

89. How the Lords have been Shorn of Power—save the Unjust Veto.

We have laid stress, and rightly, upon the importance of the absence of any power of Veto in the

Lords in regard to Money Bills. But it is important to bear in mind that, in addition to this immense limitation, the power of the House of Lords has been from time to time curtailed in a variety of other ways by Resolutions of the House of Commons. The "Power of the Purse" is so great that it appeals to everyone, and is naturally referred to frequently; but connected with this Power, which the Commons wrested from the Lords in very early times, the House of Commons has gradually obtained exclusive control over other vast powers in the State. Here let me set them all down:—

1. The sole right to control Money Bills. This power divides itself into two, for it means (1) not merely the right to settle how *taxation* shall be raised, but (2) the all important consequent right to control the *expenditure* of the taxes.

2. Entire control over the Navy.

3. Entire control over the Army.

4. Entire control over Foreign Affairs.

5. Entire control over Colonial Affairs.

6. Entire control as to all matters relating to Peace and War.

7. Entire control over the Internal Administration of the country.

8. It has become the Council of Advice to the Sovereign, through the Cabinet, which depends for its support on the House of Commons.

This is an imposing list, and shows how far the House of Commons has travelled towards obtaining complete Ascendency in the State. At the present time if the House of Lords passes a resolution condemning the conduct of a Liberal Ministry as to

some question of Colonial or Foreign Affairs, it has no effect whatever. It is difficult to realise now, that prior to the Reform Bill of 1832, such a vote of the Lords could bring about the fall of the Ministry. But so it was. We have travelled a long way since 1832. Imposing as this catalogue of the powers of the House of Commons is, it is not quite complete, for to it should be added—

9. The Dominant Control over the Monarchy.

This last power, exercised during and after the Commonwealth period and at the Revolution of 1688, depends in large measure upon the control of the House of Commons over the National Purse.

When we look at this catalogue of the powers of the House of Commons, we perceive that practically the only power left to the Lords at the present time is that of revising or rejecting Bills other than Money Bills. In *name*, the House of Lords is still the highest legal Court of Appeal in the United Kingdom, but we know as a fact that its appellate jurisdiction has passed to the Judges (par. 2). This prescriptive privilege of the Lords to sit in judgment as a Supreme Court of Appeal could not suitably be transferred to the House of Commons, and has rightly been confined to Judges of the highest legal training. The Lords have had wrested from them by the Commons, century after century, one power after another, and the only one left is that which causes so much friction in the State—namely, the unjust Veto, which gives them the power to maim, mutilate, and destroy the measures submitted to them by Liberal Administrations.

90. What Course shall be Taken?

The question we have to put to ourselves and answer once and for all is, Are we willing to maintain the existing irresponsible powers of the Hereditary Legislators? Lord Salisbury invited us, some time ago, to answer this question in the affirmative, and amongst the reasons he put forward for such a reply was that the House of Lords was not a "party-coloured" institution. "I need hardly tell you," he said, and in this we shall agree with him, "that in these days any institution which is sectional in its character, and has not the interests of the whole community for its object, is necessarily doomed." But when he went on to say, "I believe that the House of Lords is the last institution at which that reproach can be justly levelled," we shall demur. Indeed, it seems wonderful how anyone who investigates even in the most cursory manner the action of the House of Lords for the last eighty years, can arrive at any other conclusion than that the House of Lords has shown itself in all its conflicts with the Lower Chamber to be the citadel of class prejudices and class interests. It is impossible to regard the House of Lords as other than "sectional" in its character. Only look at the list of the Lords who voted in the final division on the Education Act (Appendix E), when 81 out of 123 Lay Lords voting on that occasion were members of the Carlton Club, that is, of a "sectional" or party institution. What course should be taken to overcome this dead weight of the unjust Tory Veto, which spells obstruction and mutilation to Liberal measures, must be left to those who guide

the destinies of the Country in the Cabinet. Three courses at least are open, and there may possibly be others. But whether the ways for assault upon the antiquated privileges of the Peers be few or many, one or the other must be taken, so that Liberal Governments, no less than Conservative Governments, shall, when they come into Office, also come into Power. Mr. (now Lord) Goschen, speaking on 18th September, 1885, said: "The feeling that exists in the Liberal Party in regard to the House of Lords does not arise from the fact that it is a Hereditary body or an Aristocratic body, but from this, that they are a permanent Conservative or High Tory Committee. . . . I am not speaking against a particular majority, but I say that a legislative body having a permanent majority belonging to one Political Party in the State is a danger to that body itself."

91. The Lords—Responsible to No One.

In spite of Lord Salisbury's confident assertion to the contrary, the House of Lords has for a long period opposed every substantial measure of reform, and reasoning from experience and from the nature of the Constitution of that body, it is only what we might naturally expect from it. They have not acted as a body of men interested in the Good Government either of England or Ireland. They have acted as a body whose interest it was to retain the largest possible amount of influence and power for themselves. "I do not blame the House of Lords," said Mr. Roebuck in 1836; "I have no epithets of vituperation to bestow upon them; they

have actly rightly, labouring in their vocation. Whose is the fault? It is not the fault of the Lords. The fault is in the institution; and I expect that by a series of these precious experiences, the people of England will at last come to a right appreciation of that institution. Tell me not that it is for their interest to exercise their power for the good of the people—such has never been the interest of an irresponsible body. If you place men in such a position, the labour which mankind must undergo to effect improvements will be long and tedious." Yes, not only tedious but dangerous to the body politic, when, in order to convince the House of Lords that we are in earnest, we find ourselves under the necessity of resorting to a series of agitations in order to accomplish any useful reform. The House of Commons is responsible to its constituents, but the House of Lords is responsible to no one.

The most powerful institutions longest escape reform, but the delay is generally compensated for by the thoroughness of the reform when it comes. In the words of Mr. Bryce, the question is whether we "can any longer tolerate a body so entirely dominated by class sentiment, so completely the tool of one Political Party, so absolutely irresponsible to the People" (9th February, 1894, at Liverpool).

92. The Plea for a Second Chamber.

We have seen how, stage by stage, the Lords have been shorn of their powers by the Commons (par. 89). We need be under no apprehension for the welfare of the State if the last remaining power of the Lords, the power to tamper with Liberal Legis-

lation, is severely limited or abrogated altogether. When a Conservative Administration is in power, there is no Second Chamber, for the House of Lords is ever its very humble servant. It is only when a Liberal Administration comes into Office that the House of Lords wakes up and then proceeds to cripple that Administration by the only means left to it, namely, by interfering with Liberal Legislation. As Mr. Paul, M.P., has put it, "People who shudder at the notion of a Single Chamber are quite content to live under a Single Chamber for ten years provided a Conservative Administration is in power." Lord Beaconsfield, in "Coningsby," wrote, "Nobody wants a Second Chamber except a few disreputable individuals. It is a valuable institution for any member who has no distinction —neither character, talents, nor estates." We, however, do not propose to do away with that Chamber as the Commonwealth Parliament did (see Appendix A). All we propose, following historical precedent, is once again to limit the powers of that Chamber.

"I think," said Mr. Morley at Newcastle, 21st May, 1894, "there will have to be some definite attempt to carry out what Mr. Bright, at the Leeds Conference of 1883, suggested, by which the power of the House of Lords—this non-elective, this non-representative, this hereditary, this packed Tory chamber—by which the Veto of that body *shall be strictly limited.*"

It is sometimes put forward as an argument for the continued insufferable interference of the Lords in Liberal Legislation, that a Second Chamber exists

as part of the legislative institutions of most other constitutionally governed countries. But, so far as *we are concerned*, this argument hardly touches us, for the simple reason that we have taught the rest of the world constitutional government, and it is in imitation, often without thoroughly understanding its inner working, of our political system, that other countries have adopted government by means of Two Chambers. So that when we are invited to look at other constitutionally governed countries and to learn from them, we are really invited to look at the reflection of our own political image. But when we study that political system at first hand, we find that there has been a steady movement (see par. 89) from first to last in one direction, and in one direction only, and that in the direction of centring all the political power of the State in the House of Commons, that is to say, in the People, from whom, and from whom alone, the Members of the House of Commons derive their power.

In the United States there is a Senate, as well as a House of Representatives. The United States, like other constitutionally governed countries, followed upon the lines of the English Constitution when it established Two Chambers. But the last thing that we want is a United States Senate. Let me quote from a leading American newspaper on *their* "House of Lords":—

"There never was a Senate more thoroughly out of touch with the people than the one now existing. It is the stronghold of plutocracy. The scandals which its treatment of economic and financial

questions has created are notorious. The Senators who own coal-lands and want a tariff on coal, the Senators who speculate in sugar-trust certificates and demand a tariff on sugar, the Senators who have profitable relations with New York millionaires and fight an income tax, are well known to the country. They are the agents of the people, but they utilise their agency to plunder their principals. It would be a good thing for the people of the United States if the senatorial nest of mercenaries could be annihilated. There is hardly one man in that body who fitly represents the people. Stock-jobbing and the defence of the privileged classes for a good and valuable consideration are the specialities of this body. It is a clog on the wheels of progress, a load on the shoulders of the people, a masked battery ever ready to open fire on the advancing forces of popular emancipation. The Senate ought to be abolished, and will. Not this decade surely, nor perhaps in the next, but sooner or later the absurdity of the theory that the House of Representatives speaks for the people, and that other official forces must be maintained to nullify the action of that House, will be understood. Then the Senate will be abolished."

93. The Referendum.

One of the means suggested, by those who seek to limit the Lords' Veto on Liberal Legislation, is the Referendum. It is a directly democratic method, and works successfully in Switzerland and in some other small countries. By this method various legislative proposals are from time to time submitted

to the direct vote of the electors, whose decision is final. Such measures, if approved by the electors, pass into law by the direct vote of the People, over the heads of the Members of either House of Assembly. If adopted in this country, it would work somewhat as follows: The Education Bill (1906) was lost by the vote of the Lords refusing to accept it as amended by the House of Commons. Under a Referendum the Electors would then have been asked to vote "Are you in favour of the Bill as finally amended by the House of Commons?" and they would have to vote "Yes" or "No." If the "Ayes" had the majority, the Bill would have received the Royal Assent forthwith.

It is obvious that the Referendum would be something quite new to our Parliamentary system. To a minute extent the system of a Referendum has been put to the test in England, but so far as indications go, without success, the electorate never having taken kindly to it. Concerning a number of minor matters touching local government in Urban Districts a Poll of the municipal electors may be taken, but there is a consensus of opinion to the effect that the system makes no headway, and that it continually fails to bring out the real opinion of the locality owing to the indisposition on the part of the voters to record their votes. The British elector has shown no disposition to avail himself of this method of settling public affairs.

Our Constitutional development (see par. 89) has hitherto been on the lines of gradually but steadily restricting the powers of the House of Lords by transferring those powers to the House of Commons.

The adoption of the Referendum would switch our political system off on to a new line of political development. For example, it would become possible then for an Administration to continue in office, although on a particular measure, and presumably a very important one, the electors decided against it.

Again, would the whole electorate be entitled to vote on every Bill submitted to them under a Referendum? A Bill such as the Plural Voters Bill would be clearly one for the whole electorate to vote upon. But in the case of the Education Bill (1906) the English and Welsh electors might fairly say, "Why should the Scotch and Irish electors vote upon a Bill which does not affect their schools?"

Take, again, the case of a Conservative Government being in office. This was the case when the Education Bill (1902) was passed, and the Licensing (Brewers) Act (1904). As the Lords always pass Bills presented to them by a Conservative Administration, no Referendum would be taken when a Conservative Administration held power; accordingly, it would come to this: That the Referendum would be only used against Liberal legislation.

In a small country such as Switzerland, with a total population of only 3,340,000—less than the population of Yorkshire—such a system may be easily workable. Moreover, Switzerland, from its position, has few external questions to deal with. But for a country such as ours, with a population of 42,000,000 and a Parliament which has to consider and deal with questions affecting the whole

British Empire, with a population of 400,000,000, the introduction of a system so new to our whole Constitutional development seems a questionable means of solving the dead-lock between the two Houses of Parliament.

The "Referendum" was the *third* article printed on Mr. Balfour's "programme of the Unionist party" issued at his contest for East Manchester in 1895. The programme of fifteen articles began:—

1. An "Imperial" Foreign Policy.
2. A strong Navy.
3. The Referendum.

94. Mr. Morley on the Referendum.

Mr. Morley, speaking at Leicester, 23rd March, 1898, said: "I am glad to see at the end of this hall those two words written up large on a red ground, '*No referendum.*' Those two words express my sentiments. Able men in our own party, to whom nobody would be more anxious to pay deference than I, have thrown out this point for discussion. With your permission, I will make a very short and humble contribution to that discussion. I say at once that I give this proposal as chilly a welcome as you do in that inscription. You want to get rid of the House of Lords, because it is an obstacle. By your referendum you allow the House of Lords to set up obstacle No. 2. I am sure everybody here knows what is the referendum. I am not very fond of Latin words in our old English Constitution. I do not want to make the language of politics as repulsive as the language of botany. I

like old English words, and I can find nothing in our old English Constitution from the days of your Simon de Montfort, Earl of Leicester, downwards, to countenance this business of a direct appeal from the popularly chosen representative body to the whole multitude of voters upon a special issue. That is what the referendum is. As I say, in order to get rid of the obstacle of the House of Lords you are going to allow the House of Lords, or invite the House of Lords, to set up obstacle No. 2. You see that it gives the House of Lords something which is not very far from an equivalent to that very power of forcing or compelling a dissolution which is one of the things which we Liberals have always most strenuously and peremptorily refused to them. You object to the House of Lords impairing the dignity, the responsibility, the authority, and the power of the House of Commons. But how do you improve the responsibility and the dignity and the independence of the House of Commons by allowing the House of Lords to take a question out of the hands of the House of Commons, and to appeal to an outside area of voters collected in the polling booths upon a special issue? How many referenda are you going to have? In the year 1893-94, after we had gone through all the turmoil and agitation of the General Election of 1892, we should have had a referendum upon Home Rule; we should have had a referendum on parish councils; we should have had a referendum on employers' liability—three referenda with some 6,000,000 votes, to be taken one after the other—that is to say, you would have had one after another the cost and turmoil of three

first-class party fights directly after a General Election. One more point, and really, were it not for my respect for some of those who mentioned this, I really would not argue it with you. But suppose the referendum goes against the Government, then the Government would resign, I suppose, or they would dissolve. So that, as I say, the day after you have gone through the cost and turmoil of a referendum you are to go again through the cost and turmoil of a General Election. The great glory of representative government from the days of your Simon de Montfort downwards has been that you shall not have constantly a direct appeal to the electors upon special issues, but that you shall choose men who shall express your views and your wishes upon all questions as they come up. That is representative government, and it is the glory of this country that it has founded the system of representative government. They talk, of course, of Switzerland; but in Switzerland, as I understand, there are about 700,000 voters in all. We have got 6,000,000 voters. There is a great difference. And then how it would impair the responsibility of the House of Commons! I would just like you to listen to the state of things as judged by impartial observers and witnesses in Switzerland itself. 'There is no doubt that the federal referendum has diminished the importance of the discussion upon laws and general resolutions in the Chambers and of those bodies themselves in the eyes of the people. It would not be surprising if the debaters were at times to lose earnestness in their work, since they know that, after all, the measures adopted by them, however

necessary, are at the mercy of the popular vote, so that their decisions may not be final, and all their time and trouble may be thrown away.' That is all I have to say, and it is summed up in your inscription upon that red cloth in which you have anticipated me."

95. The Unjust Veto.

The Lords make no honey, they only sting. They have stung to death the Education Bill (1906) and the Plural Voters Bill (1906). These are only the last of a long array of measures passed by Liberal Governments through the House of Commons which the Lords have destroyed. When a Conservative Government comes into office, the Lords sheathe their sting. Can this injustice go on unredressed for ever? The House of Commons, which represents the People, has put an end to the power of the Lords to control the Affairs of State in other directions (par. 89). It remains for the House of Commons to follow in the old paths and limit, once and for all, the power of the Lords to maim and to reject measures duly sent to them by the accredited Representatives of the People.

Who are interested in being well governed? There can be no doubt about the answer. It is the mass of the People. Good government may prevent the Aristocracy from having the same emoluments, advantage, or power which they would have if Government was not busied about the happiness of the many and chiefly concerned itself about the happiness of the few; but it can never be prejudicial to general happiness. Democracy is the

claim of a self-reliant people for equal rights and fair play for every man standing on his own feet, to guide his own life unfettered by the needless dead weights created by unequal laws.

"Reform of the House of Lords," in the sense of "strengthening" that Assembly, is out of the question. It is contrary to the whole spirit in which the British Constitution has been evolved. The spirit of that Constitution has been to shift political power by slow degrees, step by step, through century after century, on to the broad shoulders of the elected Representatives of the People. The only power now remaining to the Lords is the power of the unjust Veto—the power, that is, to maim and to destroy Bills emanating from Liberal Administrations. The time has come when this power also must be taken from them, or be so limited as to its exercise as no longer to hamper seriously the Legislative work of a Liberal Government. Limitation, and limitation only, of the unjust Veto is the true course to adopt. And it is strictly in accordance with all past historical precedent. The Lords make no honey, and their sting, used only when a Liberal Administration is in office, must be sheathed.

APPENDIX.

A.—THE COMMONWEALTH STATUTE WHICH ABOLISHED THE HOUSE OF LORDS.

(*From Scobell's Acts and Ordinances*, 1658, *p.* 8.)

Cap. 17.—The House of Peers Taken Away.

House of Lords useless and dangerous to be continued.

THE COMMONS OF ENGLAND assembled in Parliament, finding, by too long experience, that the House of Lords is useless and dangerous to THE PEOPLE OF ENGLAND to be continued, have thought fit to Ordain and Enact, and be it Ordained and Enacted by this present Parliament, and by the Authority of the same, That from henceforth the House of Lords in Parliament shall be and is hereby wholly abolished and taken away; And that the Lords shall not from henceforth meet or sit in the said House called *The Lords House*, or in any other House or Place whatsoever, as a House of Lords; nor shall Sit, Vote, Advise, Adjudge, or Determine of any matter or thing whatsoever, as a House of Lords in Parliament: Nevertheless, it is hereby Declared, That neither such Lords as have demeaned themselves with Honor, Courage, and Fidelity to the Commonwealth,

Wholly Abolished.

Some Qualified Lords to have Free Vote in Parliament if elected.

nor their Posterities who shall continue so, shall be excluded from the Publique Councils of the Nation, but shall be admitted thereunto, and have their Free Vote in Parliament, if they shall be thereunto elected, as other persons of Interest elected and qualified thereunto, ought to have. And be it further Ordained and Enacted by the Authority aforesaid, That no Peer of this Land, not being Elected, Qualified, and sitting in Parliament as aforesaid, shall claim, have or make use of any priviledge of Parliament, either in relation to his Person, Quality or Estate, Any Law, Usage or Custom to the contrary notwithstanding.

Otherwise to have no Priviledge.

Passed 19 *March* [1647-8].

B.—THE RESOLUTION OF 1678, RESTRAINING THE HOUSE OF LORDS FROM INTERFERING IN MONEY BILLS.

"That all Aids and Supplies, and Aids to his Majesty in Parliament, are the sole gift of the Commons; and all Bills for the Granting of any such Aids and Supplies ought to begin with the Commons; and that it is the undoubted and sole Right of the Commons to direct, limit, and appoint in such Bills the Ends, Purposes, Considerations, Conditions, Limitations, and Qualifications for such Grants which ought not to be changed or altered by the House of Lords."

Adopted 3rd July, 1678, *in the Reign of Charles II.*

C.—THE HOUSE OF LORDS (1907).

The House of Lords consists of the following Peers :—

3	Princes.
2	Archbishops.
22	Dukes.
23	Marquesses.
147	Earls.
40	Viscounts.
24	Bishops.
291	Barons.
16	Scotch Representative Peers.
28	Irish Representative Peers.
4	Legal Life Peers.
600	

We may take it roughly that 45 of these at most are Liberals, and the remainder are Conservatives (or Unionists). We may further assume that about 10 per cent. of the whole number are either under age (minors) or too infirm to take any part in attendance at the House of Lords. This still leaves a considerable number of non-attendants—namely, those who are indifferent, and, accordingly, do not exercise their right to vote.

D.—THE HOUSE OF COMMONS (1907).

The total number of the House of Commons when every seat is filled is 670, namely : 465 England, 30 Wales, 72 Scotland, and 103 Ireland.

At present (January, 1907) the Ministerialists number 512, namely : Liberals, 387 ; Irish National-

ists, 84; Labour Members, 41. The Opposition, Conservatives (or Unionists), 158.

E.—THE DIVISION IN THE LORDS ON THE EDUCATION BILL, 1906.

In the division in the House of Lords 19th December, 1906, in which the Peers insisted upon their amendments, and the Bill thereupon was lost, the Lords voted as follows:—

AGAINST: 52.

DUKE.
Devonshire.

MARQUIS.
Ripon.

EARLS.
Beauchamp.
Carlisle.
Carrington.
Chesterfield.
Chichester.
Craven.
Crewe.
De La Warr.
Dundonald.
Fortescue.
Portsmouth.
Russell.
Temple.

VISCOUNT.
Althorp.

BISHOP.
Hereford.

BARONS.
Boston.
Brassey.
Castletown.
Colebrooke.
Coleridge.
Courtney of Penwith.
Davey.
Denman.
Elgin.
Eversley.
Farrer.
Fitzmaurice.
Glantawe.
Grimthorpe.
Hamilton of Dalzell.
Haversham.
Headley.
Kenry (Dunraven, E.).
Kinnaird.
Loreburn.
Lyveden.
Monkswell.
Monson.
O'Hagan.
Overtoun.
Pirrie.
Reay.
Ritchie of Dundee.
Sandhurst.
Saye and Sele.
Stanley of Alderley.
Tweedmouth.
Wandsworth.
Weardale.
Welby.

FOR : 132.

ARCHBISHOP.

Canterbury.

DUKES.

c. Norfolk.
Bedford.
c. Newcastle.
c. Northumberland.
c. Portland.
c. Rutland.
c. Wellington.

MARQUISES.

c. Bristol.
c. Cholmondeley.
Lansdowne.
c. Salisbury.

EARLS.

c. Albemarle.
Camperdown.
Carnwath.
c. Cathcart.
Cawdor.
Clarendon.
c. Darnley.
Dartrey.
c. Denbigh.
c. Derby.
Devon.
Doncaster.
c. Feversham.
c. Gainsborough.
c. Haddington.
c. Hardwicke.
c. Harrowby.
c. Lauderdale.
c. Lindsey.
c. Lonsdale.
c. Malmesbury.
c. Mayo.
Morley.
c. Morton.
c. Mount Edgcumbe.
c. Nelson.
Plymouth.
c. Radnor.
c. Shaftesbury.
c. Strange (Atholl, D.).
c. Vane (Londonderry, M.)
c. Verulam.
Waldegrave.
Wicklow.

VISCOUNTS.

c. Churchill.
c. Cross.
c. Falkland.
c. Goschen.
Halifax.
c. Hardinge.
Hill.
c. Hutchinson (Donoughmore, E.).
c. Iveagh.
c. Knutsford.
c. Llandaff.
c. St. Aldwyn.

BISHOPS.

Chester.
Chichester.
London.
Norwich.
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From the above list it will be seen that omitting the 9 Bishops who voted in this Division, the Temporal Lords voting against the Bill numbered 123, and of this number 81, being almost exactly two-thirds of them, are members of the Carlton Club. These Peers have a "C" opposite their names.

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